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A

POLITICAL AND HISTORICAL  
ACCOUNT

OF

**LOWER CANADA;**

WITH REMARKS

ON THE

PRESENT SITUATION OF THE PEOPLE,

AS REGARDS

THEIR MANNERS, CHARACTER, RELIGION,

&c. &c.

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By A CANADIAN.

La Terrière, Pierre de Sales

LONDON:

WILLIAM MARSH AND ALFRED MILLER,  
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CONSTABLE & Co., EDINBURGH.

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## PREFACE.

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SOME years since I left Lower Canada, the country of my birth, and have, from that period, resided chiefly in England. Here I have had both time and opportunity to reflect upon the state of the various colonies which belong to the British Empire, and of that which to me is most interesting—my native country. Her present political situation has occupied a large portion of my thoughts; the want of correct information among the people of England, respecting that situation, has been long to me a subject of deep regret and solicitude; and, at length, in the absence of others more competent to the task, I have summoned resolution to hazard an explanation of the affairs of my country, persuading myself, that the candid statements of a Canadian by extraction may diminish, if they cannot destroy, the many unfavour-

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able and incorrect impressions which have been created by the relations of various English travellers and resident Anglo-Canadians, respecting the feelings and situation of my countrymen. The matter is laid before the public, as one in which they themselves are interested; and an appeal is made to the good sense of the English people, in hopes that they will listen to both sides of the question.

Few persons are ignorant that, for some years past, there has existed in Canada a misunderstanding between the Local Government and the House of Assembly, which is the popular branch of the Legislature; that this misunderstanding became more than ever decided during the late administration of Lord Dalhousie; and that it was at last deemed advisable by the colony to have recourse to the Imperial Government, in order to settle the differences existing. To enable the British Legislature justly to adjudge between these contending parties, much information is required—part of this information the present Work is intended to afford. Many pamphlets have been published in Quebec and Montreal on the same subject, and some of these are in the hands of persons in this country, directly interested in the affairs of the colony. The tone of these works shows to

what height party feelings have arrived, and the strong desire that exists on all sides to justify their conduct in the eyes of the public; but none of them has been written for the English people—none of them, however deserving, has had an opportunity of being circulated here. Being, for the most part, written by persons ignorant of the state of the information of Englishmen respecting Canada, they seldom contain such matter, or are put into such a form, as to gratify or excite the curiosity of the English public. These circumstances have induced me to take upon myself the character of an Author; to endeavour, as far as lay in my power, to expose the complicated causes of our complaints; and to seek from the hands of the British nation, what they are ever ready to grant—justice to an injured people.

In this undertaking, I hope for little success as an Author; still less do I expect any approbation from the contending political parties themselves, since I have attached myself strictly to the truth, without reference either to persons or parties. The task of blaming the proceedings of the various individuals composing or connected with the Local Government, is to me too painful to have been undertaken lightly, or without a deep feeling of the necessity of its being

impartially and completely performed : no personal feelings have interfered ; and I therefore request all those who have been, and are members of the local administration, to believe that I have no desire to attack them as individuals, and that my reflections regard solely their public functions ; my sole aim is to afford the people of this country a knowledge of our situation, so that they may be able to rescue the province from its present difficult situation. In giving my feeble talents to the common cause, I aspire to no literary reputation ; I submit to an impartial public, with the greatest possible humility, my opinion respecting the political affairs of Lower Canada ; and should I succeed in creating an impression favourable to the cause of my country and my compatriots, I shall consider myself amply rewarded for my trouble.

The greatest part of the Canadians, of whom it is my lot to form one, unfortunately know by experience, that advances in literature have, amongst us, of necessity been far from rapid : the cause of this is evident. In a new country, every man is necessarily more employed in the business of procuring the mere necessities and conveniences of life, than attaining a cultivated understanding. No class exists

there, sufficiently rich and extensive to maintain a body of literary men, by purchasing their labour. Every man is engaged in seeking after the more immediate necessities for his livelihood ; few or none depending on the proceeds of accumulated wealth. In spite of this absence of motives to literary excellence, however, some few remarkable exceptions are to be found ; men who, in any country, would be respectable for their literary attainments, but who, when their means of instruction are considered, must be esteemed men of wonderful acquirements.

If I have undertaken to write a book (a strange kind of amusement for a man of my habits), it is not that I have the vanity to place myself amongst this class of rare exceptions ; but because, in a time so critical as the present, I think it the duty of every man, interested in the welfare of the Canadian people, to expose before the British public, by all means in his power, the true cause of our evils, and the manner in which they ought to be remedied.

This work is not hastened by immediate circumstances, but is the produce of long reflection and observation, reduced into a small form, to suit the present purpose. Had there been need, it might easily

have been made to assume a more bulky shape, and imposing appearance; it was believed, however, that the object of the undertaking would be best attained, by confining the work to its present moderate dimensions.

In the Appendix (No. III.) will be found a list of such works as might be read with advantage, by those who are desirous of procuring information respecting the colony.

One of these I cannot help noticing *en passant*. This work was printed at Montreal, and designed exclusively for the colonial office, and a few private friends of the Author in England, and is styled, "Political Annals of Lower Canada, being a Review of the Political and Legislative History of that Province, &c. &c.; by a British Settler."

The honourable Author, who, with his politics, is perfectly well known, has, for the last twenty or twenty-five years, abused and cried out against every thing connected with the Canadian inhabitants of French extraction—"French Canadians," as he calls them. This is not surprising to persons in the colony, who are acquainted with the politics of the country;

but in England, where the secrets of the local cabinet are little known, such a work as the above produces some effect. It is to be regretted, that the talents of its Author have not been used to destroy, rather than to foment the animosity of the different parties. As a member of the Executive and Legislative Councils, he has had it greatly in his power, during his long residence in Canada, to render himself useful to the Province; had not a desire of domination, and the extraordinary power which he and a few individuals obtained gradually in the administration of the local government, as well, perhaps, as some feelings of private interests (at no time a matter to be passed over as of little consideration), induced him to neglect the public good, and the welfare of its ancient inhabitants, under pretext of favouring a single class, *the British settlers*, which class, according to him, has not, and never can have interests the same as those of the ancient people of the Province. It would have been easy for me to prove, to what an amazing extent he has been in error, and how much his prejudices have got the better of his reason; such an explanatory digression, however, would be endowed with little interest in the eyes of the public; and they who possess the work will be able, if they please, to judge by the exposition which I am about to lay

before the reader, respecting the policy of the line of conduct which the honourable Author proposes.

In Appendix No. I. will be found a description of the Saguenay territory, an immense tract of country, yet imperfectly known, with some observations respecting the advantages it possesses for new Settlements; and in No. II. a short description of the most useful minerals, and other natural produce of the country.

I have only to add, that the present Work was originally nearly all written in French, and that I have had it translated, in hopes that thereby it may be more generally read.

THE AUTHOR.

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# POLITICAL AND HISTORICAL ACCOUNT

OF

## LOWER CANADA.

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### CHAPTER I.

*Discovery of the Country, and Origin of its Name—Passes into the Hands of the English—Boundaries—Object of the present Work.*

IN the year 1497, Sebastian Cabot, holding a commission from Henry VII. of England, discovered the countries situated on the south-west of the river St. Lawrence. The appellation of CANADA was given to these territories, as well as to those afterwards discovered by Jacques Cartier, a subject of France. Of the origin of the word CANADA there are various accounts. It is by some asserted to be a word of the Iroquois language, signifying a collection of huts; others, however, give it a fanciful derivation from the Spanish. It is said that the Spaniards, long before Verazani was dispatched by Francis I. on a voyage of discovery, had disembarked in the bay now called Chaleurs, and, in their

search after mines, pronounced constantly before the savages of the country the two words, *aca nada*—*here nothing*; which words the Indians afterwards repeated to the French. Others, again, assert, that the term is a corruption of *capo de nada*—*cape of nothing*; which appellation the Spaniards are supposed to have conferred on the country, believing it utterly barren and desolate. The territory now known by the name of Canada was, until the year 1759, in possession of France; and, together with the remainder of her possessions in that part of America, was distinguished by the appellation of La Nouvelle France.

In 1629, Canada was taken by the English, but was then held in so little estimation as to be returned to its former owners, the French, in three years afterwards\*. In 1759, however, General Wolfe was dispatched for the purpose of conquering the country; and on the plains of Abraham, under the walls of Quebec (the capital), he defeated the French troops, who had been induced to leave their almost impregnable fortress. Wolfe lost his life in the action; but the victory he had gained decided the fate of Canada, which then passed for ever from under the dominion of France.

A capitulation was entered into by the inhabitants of Quebec and Montreal, and ratified by the regular authorities. To this capitulation I shall hereafter have to revert†.

For some time the country was under the direction of one government, and was generally designated the Province of Quebec. In 1791, the province of Quebec was divided into the two provinces of Upper and Lower Canada. To Lower Canada alone, as then marked out, are the succeeding observations intended to apply.

\* Le conseil de Louis XIII. tenait aussi si peu à cet établissement, qu'il opinait à ne pas en demander la restitution; mais Richelieu, qui avait fondé la dernière compagnie, fit changer d'avis. On arma six vaisseaux pour soutenir cette demande, et la cour d'Angleterre, d'après le conseil du Lord Montague, rendit le Canada aux Français en 1631.—*Beautés de l'Histoire du Canada*, p. 84.

† See Appendix, Nos. IV. and V.

For the purpose of preventing confusion, it may be advisable to give a specific detail of the boundaries of the province.

The country lies between 45° and 52° of north latitude, and 68° and 81° of west longitude from Greenwich. The territory of the Hudson's Bay Company, or East Maine, is its northern boundary: the Gulf of St. Lawrence, the river St. John, and part of the Labrador coast, bound it on the east. Its southern limit is formed partly by New Brunswick, and partly by a portion of the territory of the United States; viz. the district of Maine, the province of New Hampshire, the state of Vermont, and of New York. The western boundary was settled by the Act of the Imperial Parliament, passed in 1791, dividing the province of Quebec. The line running between the two provinces of Lower and Upper Canada, is, by that Act, directed to commence "at a stone boundary, on the north bank of the lake St. Francis, at the cove of Pointe au Baudette, in the limit between the township of Lancaster and the seigneurie of New Longueuil; then along the northern boundary of the seigneurie of Vaudreuil, running north; twenty-five degrees east, until it strikes the Ottawa river; to ascend the said river, into the lake Temiscaming; and, from the head of the said lake, by a line drawn due north, until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line, to the utmost extent of the country, commonly called or known by the name of Canada\*."

Differences having arisen between Great Britain and the United States, respecting the boundaries of their respective territories, commissioners were appointed to arrange the difficulties. The line between the province of Upper Canada and the United States was accordingly settled by them; but finding that they could not agree respecting

\* See BOUCHETTE'S *Topography*, pp. 1—3.

the division between Lower Canada and the district of Maine, the matter was referred to the emperor of Russia; from whose decision it was eventually transferred to that of the king of the Netherlands, to the great discontent, it is asserted, of the United States. The matter, in a military point of view, is considered of importance, and is still undecided.

The object of the present work is to give a succinct detail of the government of the country thus described, from the epoch of its passing under the dominion of the English, down to the period of the termination of Lord Dalhousie's administration, in the year 1828. Into a very minute discussion of the proceedings of the colonial government, during the first years of the English rule, however, it is not my intention to enter; and with a cursory view of the more important legislative proceedings of the Imperial Parliament I shall dismiss this early portion of our history: but as I come nearer to the present time, a more particular detail will be required. I flatter myself that an exposition of the conduct of this specimen of colonial administration will not be entirely destitute of interest, even to the English reader: it will give him an insight into the workings of a vast, and, in my mind, an ill-constructed machine of government: it will prove to him the pernicious consequences of having irresponsible rulers, and the utter impossibility of a well-organized administration being composed of persons drawn from a distant country, ignorant of the manners and situation of the people they are destined to rule, and careless of those interests with which they are but temporarily connected: it will exhibit to him a scene of complicated and vexatious oppression, on the one side; of unsuspecting confidence and willing obedience, changed by ill-usage into distrust and opposition, on the other: it will prove how the best intentions on the part of the English people have been constantly defeated, by the avarice and despotism of petty officers: it will teach him, in short, how a whole people

have been checked in the progress of improvement, enthralled, ill-treated, abused, and then misrepresented, by the evil influence of a handful of grasping functionaries.

Having exposed the evils, it is then my intention to propose the remedies; to lay bare the injuries which my country has suffered; to point out the means of redress. These are the sole objects of the present undertaking.

By the treaty of Paris, signed on the 10th of February, 1763, the Canadas were ceded to His Britannic Majesty, under certain provisions, which provisions, in some measure, were the objects of various articles in the capitulation entered into by the inhabitants of Quebec and Montreal with General Amherst\*. On the 7th of October, the same year, His Majesty issued a proclamation, the objects of which were as follow. Both by the capitulation above mentioned, and the treaty of Paris, the inhabitants of Canada were contemplated under the character of British subjects†; in conformity with the understanding which led to such contemplation, the proclamation of the King was issued. No distinction was made between the old and newly-acquired subjects of His Majesty, in this document; so that we may safely conclude that no distinction was intended. The whole of the inhabitants were considered as an out-lying portion of the English people, inhabiting a territory for which the King was, by the nation at large, allowed to legislate.

After certain regulations respecting the administrative portion of the Government, came certain articles, providing—

1. That the English criminal and civil code of law, with the laws of the Admiralty, should have full force within the province.

2. That the trial by jury, both in civil and criminal cases, should always be employed.

We may here observe, that two important consequences flowed from the establishment of this law: *First*, no citizen

\* See Appendix, No. V.

† See Article 41 of the Capitulation of Montreal, Appendix, No. V.

could be condemned to punishment, but on account of some infringement of the law; which infringement must previously have been decided on by the legal tribunals. *Second*, the liberty of the press, as it existed in England, became *ipso facto* a part of the law of the land.

To give effect to this proclamation, the provincial authorities erected tribunals, to administer justice according to the letter and the spirit of the law thus established.

I may here be permitted to remark, that a violent and unnecessary revolution was, by this measure, brought about. The inhabitants of Canada had hitherto been accustomed to the law according to the customs of Paris; their expectations were framed in accordance with this law; and much of the property of one portion of the people depended entirely upon its existence. To break in upon the old habits of the people, without the expectation of one earthly benefit, was a piece of injustice, which, had it sprung from any thing but ignorance, would deserve severe reprobation. I have no doubt but that the English ministry had a sincere desire to benefit the Canadian people; and, with the bold presumption usually attendant on ignorance, they altered the whole law of a people, without the slightest anticipation of mischief. One other determination deserves also to be recorded: no language but English was permitted in the law proceedings of a people who could not understand a syllable of that language.

The mischievous consequences of some of the above regulations, passed in defiance of treaties, of justice, and humanity, were immediately felt. Surprised, angered, and, in many cases, ruined by their influence, our ancestors, after a few years of silent suffering, at length raised their voices, and transmitted a statement of their complaints to the King. The Ministry paid attention to their remonstrances, and partially removed the cause of them, by passing, in 1774, an Act, commonly called the Quebec Act\*. By recalling into

\* See Appendix, No. VI.

force the ancient laws of the country, this Act provided, as far as was in the power of the Ministry, for the safety of our private rights, but, at the same time, served to rob the people of expectations which they fondly entertained, upon their coming under the dominion of England, viz. that a representative government would be conferred on them, as soon as circumstances permitted. In the place of such a system, a local legislature was created, in which the people had no part; laws might now be enacted without their consent, and thus they were disappointed of one great privilege, which they had been taught to believe was the inalienable right of a British subject. This Act, moreover, by establishing, without reserve, the ancient laws of the country, did away, at once, with the trial by jury in civil cases; with the writ of *habeas corpus*; and also with the liberty of the press. However, the Act was received with gratitude for the good that it brought. In time, nevertheless, the evils it occasioned were loudly complained of, till, at length, the present constitution was, by the Imperial Parliament, conferred upon the country. Before this happened, indeed, several ameliorations had taken place in the situation of the people—ameliorations brought about by the express commands of the Ministry in England. The Council had, in accordance with these commands, issued two ordinances—one in 1784, calling into power the writ of *habeas corpus*; the other in 1785, establishing the trial by jury in civil cases. The joy created by the first ordinance, among all classes of people, was extreme; their personal security seemed thereby established, as was their political existence, by the Act of the Imperial Parliament in the year 1791, which conferred on them their present constitution.

The exertions of the Ministry to benefit the people of Canada, were not undertaken for persons wholly undeserving of the favour of the English nation. In the disastrous war of American independence, the Canadians steadily adhered to the fortunes of the English, and bravely repelled an

attack of the Americans, almost wholly without assistance from the soldiers of the mother country. In 1775, the people of the United States contemplated the conquest of Canada, and, in pursuance of that object, commenced operations on the 10th of May, by taking possession of the fort of Ticonderoga, upon Lake Champlain, which fort contained one hundred pieces of cannon. Crown Point, with the only vessel of war which belonged to the English, on Lake Champlain, also fell into their hands. These actions were performed by the division of the American army, under the command of General Montgomery, who determined to enter Canada by Lake Champlain. The second division, under the command of General Arnold, traversing the woods in the district of Maine, and suffering extraordinary fatigues during their march, arrived at Satigan on the 4th of November; and, on the 8th, reached Point Levi, which lies exactly opposite Quebec, on the south shore of the St. Lawrence; and would probably have rendered themselves masters of that town, had they been able immediately to procure the means of traversing the river, as Quebec was at this moment defenceless, General Carleton, the English governor, being then occupied with his troops near Montreal, in endeavouring to repulse the attacks of Montgomery. Arnold succeeded, nevertheless, in passing the river on the 9th, at Wolfe's Cove, a short distance above the town, and took possession of the environs. Having received intelligence of the taking of Montreal by Montgomery, he established himself at Pointe aux Trembles, twenty-one miles above Quebec, and awaited the arrival of Montgomery before he attempted to attack the town. Montgomery, however, was unable, from various obstacles, and from the resistance he every where experienced, to join him before the 1st of December. General Carleton, in the mean time, perceiving that the safety of the province depended entirely upon Quebec, which could alone offer any resistance to the American army, proceeded thither without delay, and, fortunately escaping interception, arrived there, on the 19th of.

November. His arrival produced an extraordinary joy among the people ; and he prepared, with his garrison, consisting of eighteen hundred men, for an obstinate defence. Of this garrison, three hundred and fifty men were regulars ; about three hundred and fifty more consisted of seamen ; the remainder of the force being composed entirely of militia, whose firmness and good conduct, during the siege, wrung, even from the most Anti-Canadian, the flattering tribute of unwilling applause\*. Montgomery having, at length, taken the command of the American army, called a council of war, in which it was determined to attempt, immediately, to carry the town by assault. The 31st of December was the day on which this determination was to be carried into effect—a day fatal alike to Montgomery and to the success of the American arms in Canada. The besieging army had, from time to time, during the winter, been reinforced by succours from the United States ; but were unable, even with their augmented forces, to overcome the obstinate courage of the besieged, or to resist the terrible climate of the country. Montgomery, during the night, led his forces to the attack ; a furious snow storm was raging, and served, in some measure, to prevent the enemy from discovering his motions. As he approached Prescott Gate, by the road which leads from the upper to the lower town (which road winds round the face of the rock upon which the upper town is built), his army was crowded into the long narrow pass which led to the gate. The confused noise, necessarily arising from a multitude of persons struggling up the path, struck the ear of the sentinel in spite of the roar of the storm ; the sentinel immediately challenged the persons whom he supposed to be approaching : to this challenge, no answer being returned, he aroused the guard. During this awful interval, Montgomery formed his men, and advanced hastily to the gate. At this moment the garrison opened a fire with the guns which commanded

\* Mr. Smith, in his *History of Canada*, pp. 7, 8, Vol. II, even acknowledges, “that there were Canadian gentlemen whose conduct, during the siege, was highly meritorious.”—What condescension !

the path ; the groans which immediately succeeded plainly revealed the enemy ; and not till every sound in answer to the fire had died away did the garrison cease from their cannonade. Morning came, and revealed nothing ; the snow falling thickly after the enemy had been destroyed, covered every trace of the tremendous efficiency of the garrison's fire. It was quickly discovered, however, that Montgomery, with the whole of the attacking party, had perished. This was a fatal blow to the hopes of the enemy, who, after several further unsuccessful attacks, raised the siege on the 6th of May, and retreated towards their own country. Their army, at that time consisting of about three thousand men, attacked on all sides, was quickly dispersed, and by far the greater portion captured. During the whole of this painful siege, as well as the remainder of the campaign, disastrous in every point to the English, the Canadians exerted themselves with indefatigable ardour and perseverance—maintained throughout an unflinching adherence to the English party, and proved themselves (if faithful conduct can create desert) deserving of the most hearty goodwill, assistance, and respect from the mother country.

## CHAPTER II.

*Act of 1791\*, for dividing the Province into Upper and Lower Canada—Legislative and Administrative Bodies—The Governor—Executive Council—House of Assembly—Judiciary.*

WE have now arrived at the most important epoch of the History of Canada, *viz.* that at which her present Representative Government was conferred upon her by the Imperial Parliament. For the purpose of giving an insight into the intention of the then Ministry, I will lay before the reader the proceedings of the House of Commons:—

### HOUSE OF COMMONS.

*Friday, March 4, 1791.*

Mr. Chancellor Pitt moved, "That His Majesty's Message concerning the New Constitution for Quebec might be read." It was read accordingly.

*George R.*

His Majesty thinks proper to acquaint the House of Commons, that it appears to His Majesty, that it would be for the benefit of His Majesty's subjects in the province of Quebec that the same should be divided into two separate provinces, to be called the Province of Upper, and the Province of

\* See Appendix, No. VII.

Lower Canada ; and that it is His Majesty's intention so to divide the same, whenever His Majesty shall be enabled, by Act of Parliament, to establish the necessary regulations for the government of the said provinces. His Majesty therefore recommends this object to the consideration of the House.

Mr. Chancellor Pitt then moved, " That the Act of the 14th of His Majesty, respecting the said province, be read ;"—and he observed, that the purport of his motion was to repeal part of the above Act, and to introduce new regulations for the future government of the said province. Feeling the importance of the subject, he should have been desirous of stating fully to the House the grounds and the principles on which he meant to proceed, in forming a constitution for a valuable appendage to the British dominions ; which, he trusted, would contribute to its future prosperity. But as it was not likely that *any opposition would arise against bringing in a Bill for this purpose*, and as explanations would come with more propriety when the Bill was before the House, he should state in a few words only the outlines of the plan ; unless questions were asked, and explanations demanded, in the first instance. The Bill which he meant to propose was founded, in the first place, on the recommendation contained in His Majesty's Message, to divide the province into two governments. This division, it was hoped, would put an end to the competition between the old French inhabitants and the new settlers from Britain, or British colonies, which had occasioned the disputes and uncertainties respecting law, and other disputes of less importance, by which the province had been so long distracted : this division, it was hoped, could be made in such a manner as to give each a great majority in their own particular part, although it could not be expected to draw a line of complete separation ; any inconvenience to be apprehended from ancient Canadians being included into one, or British settlers in the other, would be cured by the establishment of a local legislature in each.

It was for this purpose he should first propose, in imitation of the constitution of the mother country, a Council and

House of Assembly for each : the Assembly to be constituted in the usual manner, and the members of the Council to be members for life, reserving power to His Majesty to annex to certain honours an hereditary right of sitting in the Council. All laws and ordinances of the province were to remain in force till altered by the new legislature : they would, consequently, retain as much of the laws of England as they chose to keep, and they would possess the means of introducing as much more as they might think convenient. The *Habeas Corpus* Act was already law, by an ordinance of the province, and this invaluable right was to be continued, as a fundamental principle of the constitution—these were the most important points.

Mr. Fox then declared it impossible to express an entire approbation or disapprobation of a Bill which the House had not yet seen ; but he did not hesitate to say, that, if a local legislature was liberally formed, that circumstance would incline him much to overlook defects in the other regulations ; because he was convinced, that the only means of *retaining distant colonies with advantage, was to enable them to govern themselves.*

*Ordered*,—"That leave be given to bring in a Bill to repeal certain provisions of the Act of the 14th of His Majesty, respecting the government of Canada, and to make other provisions, &c."

From the observations of Mr. Pitt, it is evident that it was the intention of His Majesty's Government to give to the majority of the inhabitants of each province, and, by consequence, to the *French Canadians* in Lower Canada, the regulation of their own public affairs. This measure, which then, by the greatest statesmen of England, was considered not only serviceable but absolutely necessary, is now represented, by certain classes of persons aspiring to exclusive domination among us, "as the prolific source of the present grievances of the subjects of British origin ;" and these disappointed rulers suggest, "as the only remedy compatible with the interests of British colonization, that the constitutional powers

of the House of Assembly should either be greatly diminished, and strictly confined to legislating for the *French Canadians*, and those of the other branches of the legislature increased, for the protection of British settlers, or inhabitants of British origin, or the composition of the House of Assembly should be modified, to suit the purposes of British colonization." When, in tracing down our history, we arrive at the period when regulations were projected, in pursuance of these suggestions, I shall have to recall to the reader's mind the opinion of Mr. Pitt, as well as to beg of him to bear in his recollection the statements upon which that opinion was grounded. I now proceed to describe the constitution, as then framed by the Parliament of England.

The LEGISLATIVE body was composed of—1. The Governor: 2. The Legislative Council; and, 3. The House of Assembly.

The ADMINISTRATION was composed of the Governor, and a Council styled the Executive Council. To a complete understanding of the remainder of this history, a minute exposition must be given of the composition of these various branches of the government.

Of the composition of the JUDICIAL body, it will also be requisite to enter into explanation.

## § 1. LEGISLATIVE AND ADMINISTRATIVE BODIES.

I. *The Governor.*—If the reader bear in mind, throughout the following description, that the constitution of Canada is supposed to be an imitation, nearly perfect, of that of England, his conception of what I shall lay before him will be materially assisted. By this also he will learn how the people of Canada have been imposed upon by certain words and analogies; and, perhaps, he will obtain an insight into the real structure of the English constitution itself.

The first officer in the government is the Governor, who is supposed to be analogous to the King in the British government. The differences between his real situation, with

reference to the government of which he forms a part, and that of the King of England, are however manifold and important.

The Governor is appointed by the English Ministry, and removable at their pleasure: the powers conferred upon him vary, according to the will of his appointers; but for the most part they are as follow:—

1. He has the power to call together, prorogue, and dissolve the Parliament.

2. He has the power to give, or refuse, his assent to laws passed by the other two branches of the legislature: reserving the right to the King in Council, to revoke, within two years, his assent when it shall have been given.

3. He may reserve his assent to, or dissent from, any law, in order to learn the King's pleasure thereon.

Such, for the most part, are his powers, considered as a constituent element of the legislative body; the remainder must be viewed as forming part of his *administrative* functions.

1. He has the office of appointing all the various functionaries of the internal government, for example:—Judges, Revenue Collectors, Justices of the Peace, Militia and Police Officers, &c.

2. He possesses a power similar to that of the King of England, as regards the punishment of convicted criminals; he remits, or carries into execution, the sentence of death; he may remit fines, commute other punishments, &c.

3. He is entrusted with the office of providing for defence against exterior attacks, having a control over the King's troops in the country, and the militia.

4. He also exercises certain portions of the King's power in the government of the Church, in presenting Protestant incumbents to parsonages and rectories, &c.

He also fills a *judicial* capacity, being *ex officio* a member of the Court of Appeals: of this power we shall speak hereafter.

These are his powers in name; in reality, however, they suffer material modifications, which modifications arise in consequence of the peculiar influence of the Executive Council. Of this council we shall speak before we attempt to describe the two remaining branches of the legislative body.

II. *Executive Council*.—This council ought to be composed of twelve members, and is supposed to bear a strict resemblance to the Privy Council in England: how correctly, will be immediately seen. Mr. Nelson, Member of the Provincial Parliament, in his evidence before the committee of the House of Commons, gives the following account of its present composition. It consists of—

1. Jonathan Sewell, *Speaker of the Legislative Council*, Chief Justice of the province and of the district of Quebec, and President of the Court of Appeals.
2. The Rev. C. J. Stewart, Lord Bishop of Quebec.
3. John Richardson, Merchant.
4. James Kerr, Judge K. B., Quebec, and of the Court of Vice Admiralty.
5. M. H. Percival, Collector of the Customs.
6. William Smith, Clerk of the Legislative Council.
7. John Hale, Acting Receiver General.
8. C. G. Delery, Assistant Clerk to the Legislative Council.
9. John Stewart, Sole Commissioner of the Jesuits' Estates.
10. A. W. Cochran, Governor's Secretary, Law Clerk of the Legislative Council, Clerk of the Prerogative Court, and Auditor of Land Patents.
11. James Stuart, Attorney General.

Out of these, seven are legislative councillors, three are clerks of the Legislative Council, and one is Attorney General: of the whole number, there is one that is a native of Lower Canada, the rest are from different parts of the King's dominions, the greatest portion of them are natives of other colonies and the late colonies. This is the sole body in the country which has any check over the expenditure; they are delegated by the Treasury to exercise the powers of

the Treasury ; and they report to the Treasury ; and upon their reports, the Governors are finally discharged : they in fact audit accounts."

The Committee naturally asked Mr. Nelson, " If he considered this a sufficient check ? His answer was—No ; it is no check at all\*."

We beseech our readers to pay attention to the composition of this Council, and then inquire whether it be possible for the Governor to avoid being completely under its influence.

This Council was established immediately after the conquest, in imitation, it is said, of the King's Privy Council. They who compose it may be dismissed at the pleasure of the King ; but that which is most extraordinary, as regards them, is, that they are completely irresponsible for their own conduct ; or for whatever conduct they induce the Governor to pursue. There is no law in the colony which regulates the exercise of their functions ; they receive their instructions from the King, and are considered as merely the agents of the Treasury. They have, it is true, no more than £.100 per annum as salary, in their character of Executive Councillors ; but they nevertheless are well provided for out of the public purse, as may be seen by the list above given of the several offices they hold ; and all the *warrants*, for the payment of money, are countersigned by their clerk.

An intelligent Canadian writer says of them :—" But it is not only the duties of the more immediate servants, advisers, and officers of the Crown, the Privy Council, and the Judiciary, that the members of His Majesty's Executive Council, in this province, are called upon to perform, they have also undertaken to discharge the duties of the House of Lords ; that august body, the individuals of which recall to memory all the great, virtuous, and patriotic deeds of a long line of noble ancestors ; who themselves still are the natural aristocracy of the country, who possess a greater

\* See *Commons' Report*, July 22, 1828.

portion of the soil of the kingdom, and whose interests and prosperity are inseparably connected with those of the nation; thus, equally independent of the Crown and the people, they form the strongest possible barrier against the abuse of power, which is necessarily vested in the Crown and its servants, and the violence of popular feelings; and they afford the best security for the permanency of the constitution and the inviolability of property, which is the main object of every good government, and the fundamental principle of British freedom\*."

Let us, however, proceed a little further, and point out the cause which throws uncontrollable power into the hands of the Executive Council.

The Governors, when appointed, know, or quickly learn, that they are about to stand between two powerful and opposite political parties. We may easily suppose that, having, in the outset, no particular bias, they would be reserved in their conduct, and appear free from partiality. When they arrive, however, they are possessed of little knowledge respecting the country and the people; and, from the shortness of their stay, they are enabled, before they depart, to acquire very little more. They are, nevertheless, personally responsible for their conduct. It is natural, therefore, that they should have recourse to such persons as can most completely defend them from all those evils which their ignorance might probably entail on them. They quickly discover the most useful to them, and, from many circumstances, the most powerful persons are the members of the Executive Council. In these, then, they eventually confide; and experience has shown that, whenever a contrary course has been pursued, the Governor has uniformly paid dearly for his temerity. The Council, when contradicted, seldom have failed to transmit to the Treasury representations disadvantageous to him contradicting them; and as a Governor can easily be found, and an Executive

\* *Financial Difficulties, &c.*, p. 18.

Council cannot, without great difficulty, be replaced, the Governor is sacrificed.

Moreover, the Governor finds the Executive Council in power when he arrives; they alone are cognizant of the plan of operations decided on by the preceding Governor. He is by them, therefore, of necessity instructed in the routine of business, and seeing none that are not wedded to the old system, he soon becomes, by mere habit, also attached to it. It cannot be said in Canada, as in England, that the head of the Government can do no wrong. The King, in England, acts upon the advice of responsible ministers: in Canada, the matter is far different; the Executive Councillors are in no way responsible; the Governors are by law completely so\*, and become, in consequence, the tools, and in many cases the dupes, of the great confidence they

\* The following observations may serve to illustrate the positions I have advanced. "Our Governors are said to represent the King. They do exercise some part of the kingly power; but they are far from possessing its reality, its durability, and its independence. They are liable to actions in England, at the instance of individuals;—to charges before the King in council;—to parliamentary impeachment;—and are removable at the pleasure of the King, acting by his responsible advisers; and this may be effected with marks of displeasure, which, from the general justice with which they have been inflicted in England, may amount to a very severe punishment. If those to whom a Governor is to look for advice, and through whom he must act, should be liable to no certain responsibility;—if they should happen to be bound together by any tie of individual interest;—if, in addition to this, they should have a decided control over one branch of the Legislature, and could arrest the whole of its proceedings;—if they had also the expounding of the law in the Courts of Justice,—a Governor must find himself very powerfully supported, both in and out of the Colony, who would think it advisable to take a decided part in opposition to their views. Sir Robert Prescott, Sir George Prevost, and Sir John C. Sherbrooke, all Governors-in-Chief, hazarded such a step in this colony; but, perhaps, not with that success which can furnish any very powerful inducement to others to follow their example. Those who are acquainted with the history of the province must remember, that, although the public officers, nominally at least, hold their commissions during the Governor's pleasure, as acting for the Sovereign, several of them did not hesitate openly to oppose the Governor, whenever the Executive Council was opposed to him."—*Financial Difficulties of Lower Canada*, pp. 16, 17.

are obliged to place in the Executive Council: and possess, for the most part, no other method of escaping from the difficulties by which they are surrounded, than by declaring openly against the Canadian party, or, in other words, the party of the people; whom they are taught to believe, and whom they too often boldly assert to be enemies to the government of the mother country; heaping upon them, at the same time, the epithets of demagogues, republicans, and other terms intended to be opprobrious. The usual effect of this conduct is, that the Governors are assailed by the people with various remonstrances, which become, in the end, so thick and pressing, that they (the Governors) are at length obliged to depart, with their minds soured and disappointed, hating and abusing the people. The Ministers in England invariably support the persons whom they have appointed; and are the more readily inclined to approve their conduct, inasmuch as it is always defended by the Legislative Council, which forms the second branch of the Legislature; but which is, in fact, the Executive Council, under another name; and which is always in opposition to the House of Assembly: so that the Governor who quits his post fails not to have, in appearance, the support of the most respectable part of the community, and is thus able to despise whatever charges may be brought against him by the representatives of the people. What are the Ministers to do in such a case? They must judge of what passes in the colony by the representations of those whom they employ; they blame the Canadians, who unhappily have never yet been able to authorize an agent in England to state their grievances and maintain their rights\*. And never did the people obtain a hearing till, driven by necessity, they raised a private subscription, and, in 1828, dispatched three Members of the House of Assembly to England, who were

\* A Bill to appropriate money to the maintenance of an agent in England has several times passed the House of Assembly, but has invariably been thrown out in the Legislative Council.

luckily examined before the Committee of the House of Commons, and were thus enabled to give a full and correct account of the situation of the colony.

III. *Legislative Council*.—We now come to the second branch of the legislature, viz. the Legislative Council.

This Council is supposed to be established, as nearly as possible, on the same principle as that upon which the House of Lords in England is founded. There exists this great difference, however, between the two bodies; the members of the Legislative Council are not possessed of hereditary titles. This aristocracy, therefore, cannot maintain itself in a state of purity, and cannot have at heart the interests of the country: Canada is never considered by them other than a place of momentary sojourn; themselves they look upon as birds of passage; they are not, consequently, attached to the soil; they seldom acquire landed possessions, which could alone place them in a state of independence. The Governor, besides, may create at his pleasure any one a member of this council, and the spirit of party but too often induces a carelessness concerning the qualifications which ought really to be required\*. The power of the Legislative Council is an intermediate power; in other words, a power instituted to check the tendency which the Governor and the House of Assembly have, in common with other ruling bodies, towards despotism: it is therefore requisite, if we are desirous of preserving the constitution in its purity, that this body be perfectly independent, as we see to be the case with the peerage of England; and that it be sufficiently powerful to maintain the equilibrium between the executive and the popular branch of the constitution. In Canada, this body has

\* When speaking of qualifications, it may not be improper to observe, that, by law, there are none required. One great means of approximating the Legislative Council to the House of Lords, would be, to make an independent landed estate a necessary preliminary to being a Member of the Council. Persons holding offices ought also to be excluded, more particularly the Judges; who should not by any means be allowed to mix in political affairs, lest thereby they give an opportunity for the people to fear a partial administration of the law.

no influence, because it is always supposed to act in accordance with the views of the Executive. It is almost useless to repeat, that one of the most essential qualities for a legislative councillor, is independence; and that this independence cannot exist without a fortune sufficient to maintain them with honour and decency, without the assistance of the Government or of any political corporation, in the most respectable rank in the colony. It is to be regretted that so little attention has hitherto been paid to so important a subject; and that those persons have not obtained the privilege of sitting in the Council, who were best calculated for the office, both by their situation and their talents. Unfortunately, few persons are placed there, possessed of landed property; few who are not supported by salaries from the Government. It is easy to see which side they must naturally favour; it is no less easy to perceive, that this partiality must necessarily create misunderstandings between the Legislative Council on the one hand, and the House of Assembly on the other.

The Legislative Council was, in the year 1824, and is, I believe, at present, composed of thirty-three members: of these, some are too old to attend; others seldom make their appearance, under a pretext (correct or not, is not for me to say) that they are subjected to continual mortifications by the conduct of the ruling people; and others are absent from the province: so that the management of affairs is in the hands of certain resident *employés* of the Government, the greater number of whom are members of the Executive Council.

IV. *House of Assembly*.—The House of Assembly is the Commons House of Parliament for the province; the members of which are elected every four years. In 1792, by a proclamation of the then Governor, Sir A. Clarke, the province was divided into twenty-one counties, and the number of the members to be returned was fixed at fifty. The persons chosen are usually persons of property; though that by law is not absolutely required. In England, every knight of the shire ought to have a revenue, upon freehold estate, to the amount of £600 per annum; and every citizen or

burgess, being a member, £200 per annum : but in Canada it is sufficient to have real property, yielding 40s. per annum in the country, and £5 in the cities ; or to pay a rent of £10, to be qualified to be elected member of the House of Assembly. Up to the present moment, no necessity has been perceived of requiring any other qualification : no abuse has hitherto crept in ; it being difficult, and almost impossible, for any one to be elected who is not both respectable and independent.

When the Provincial Parliament was established, “the French Canadians, notwithstanding their comparative ignorance of the management of a free government, commenced,” to use the language of the Comte de St. Simon, “à donner des marques du patriotisme, que chaque individu apporte en lui à l’instant qu’il est fait membre d’un gouvernement ; et qui se change en suite en esprit de corps.” They chose, at the commencement, a Canadian to be their Speaker ; which choice, in place of being turned into ridicule, ought to have been highly approved by the Executive Council, as it actually was approved by the Governor : but, on the contrary, the *English leaders*, immediately perceiving that from this moment their influence must of necessity diminish, placed every possible obstacle in the way of the various resolutions carried by the House ; and have, at length, succeeded in creating an inconceivable want of intelligence and confidence between the different parts of the Government, which, down to the present moment, has been of the utmost prejudice to the interests of the country.

The great body of the Canadians, at this early period of their political existence, felt no ambition for the post of representative ; and abandoned the duty, as well as the honour, to the seigneurs of the country, and some few rich citizens. But, in a few years, the various contests at elections, and the importance which the office of representative was seen to afford, soon excited an emulation among the people, and taught them to discuss and understand the rights conferred on them. This emulation, combined with the necessity of

having representatives understanding local interests, soon led different persons, possessed indeed of little education, but, nevertheless, sincerely desirous of promoting their constituents' welfare, to come forward, and oppose the election of those in whom the people placed no confidence; and who, in reality, by their situation and habits, were little calculated to create confidence. In the course of time, without any particular attention being paid to the subject, the House of Assembly was composed of persons fairly representing the people; of men more independent, more firm, and less corruptible than before.

Until the administration of Sir James Craig (of which we shall speak hereafter), the Canadian people thought it their duty to elect a certain number of persons, really English, or of English extraction; but as these gentlemen, almost without exception, made it a duty to join in the arbitrary conduct of the Governor, they, in the numerous dissolutions of the House which then occurred, naturally lost the confidence of the people, and from that moment the House may be said to be composed exclusively of French Canadians.

### § 2.—JUDICIARY.

The judicial establishments of the province are few, and, though simple in their construction, are well fitted, hiddenly, to maintain an extensive and dangerous power in the hands of the Executive Council.

Certain petty courts, which it is not necessary here to describe, being omitted, the judiciary of Lower Canada is composed in the following manner:—

At both Quebec and Montreal, there is a separate independent court—the one styled the Court of King's Bench, for the district of Quebec; the other, the Court of King's Bench, for the district of Montreal.

The first consists of the Chief Justice of the province, and three other judges, all members of the executive or legislative councils; the second, of the Chief Justice of Montreal, and four junior judges.

These courts have a civil and criminal side, and dispatch all the business not included in the jurisdiction of the petty courts above alluded to, or in that of the Admiralty Court, in which a single judge presides, he being also one of the judges of the Court of King's Bench.

At Three Rivers, there is a court, termed the Provincial Court, over which a single judge presides\*. Gaspé, and St. Francis, possess each a court of the same description.

From these courts, except, I believe, from the Admiralty Court†, there is an appeal, in civil cases, to a court, styled the Court of Appeals, at Quebec, which is composed of the Governor or Lieutenant-Governor, the members of the Executive Council, the Chief Justice of the province, the Chief Justice of Montreal—any five of these form a court; but the judge from whom appeal is made is unable to sit on the trial of the appeal.

All the judges of these courts are appointed by the Governor, which, in other words, is by the Executive Council; and are, it would seem, from circumstances which I shall hereafter state, responsible to no one. There is moreover, a graduated scale of appointments, by which the younger judges are maintained in a state of expectancy of

\* The late Pierre Bedard, Esq. is now succeeded by R. Vallieres de St. Réal, Esq., a nomination which is highly creditable to the judgment and impartiality of the present Governor. The name of the late Judge and Canadian patriot, however, will never be mentioned by impartial writers of Canadian history without terms of admiration, for his firm and disinterested conduct during his political career. He was one of those honest Canadians who suffered the most during the administration of Sir James Craig.

† Abuses of a serious nature, and deserving the attention of Government, are said to have crept into the Court of Admiralty. Several complaints have been made against Judge Kerr (the present judge), and accusations carried before the Provincial Legislature during the last session, but we are not acquainted with the result. We know that £200 per annum have been granted to the judge by the province, in lieu of fees; but it is positively asserted, that, under different denominations, these fees are still exacted, and have even been considerably increased. This, if correct, must seriously affect the interest of the ship owners and merchants in England.

more important and lucrative situations. The higher judges themselves, form the most influential portion of the Executive Council, and thus the power of the Council extends through the whole body of the judicature.

This power stops not here; besides the control which is thus preserved over the judges, there is a direct influence possessed over every part of the administration of justice, even where juries are employed.

In Canada, the sheriff is not, as in England, the chief man in his county, nor his office one without emolument. He, with us, is an officer of the court, is removable at the will of the Governor, has a salary, and is thus under the power of the Executive.

I may cite, as an example of the mode in which influence is maintained, the present state of the judicature at Quebec:—The Chief Justice is Mr. Sewell, he is an executive councillor, so are his colleagues; so much then of the administration of justice as depends wholly upon them may thus be said to be governed by the wishes of the Executive Council. The sheriff is Mr. W. S. Sewell, son of the chief justice. It is the duty of the sheriff to prick the juries when they are needed. If, at any time, causes should come on, in which the interests of those in power are involved, what security exists, that no improper advantage may be taken of the power of the Executive in the selection of jurymen? I do not assert, nor do I mean to insinuate, that the sheriff is not a man of probity; but I do assert, and that openly, that the administration of justice ought not to be dependent on the *voluntary* good conduct of any man. The conduct of the sheriff ought to be subjected to such influence as would *compel* him to be upright. The sheriff ought not to be one immediately under the dominion of the Executive, and closely allied to the ruling judge of the court. A jury is thought requisite, in order to guard against any improper influence of the Executive over the judge; such is the express constitutional theory respecting jury trials: but if it be requisite to choose a jury for this

end, it is absolutely requisite, that he who chooses the jury should also be free from such improper influence.

In Canada, moreover, there is no relief for the subject against the Crown, as will be seen by the following extract :—

“ The King cannot be sued in his courts. It is understood that, by decisions of our own courts, public officers cannot be sued for engagements entered into by them in their public capacity, so that really the subject may suffer without a remedy. In England, there is the petition of right, which is decided upon in legal form. The Bill, introduced in 1824, by a distinguished advocate, was intended to give a similar relief to the subject here. *It, however, failed in the Legislative Council\*.*”

The officers of the crown always are careful to confound their own rights with those of the King himself; they studiously guard themselves from attack and control, under shelter of the constitutional maxim, that the King is not answerable for his conduct; and exclaim that His Majesty's dignity is insulted, when their own evil deeds are censured. Attempts to make these various judicial officers amenable to justice will hereafter be described; the causes and consequences of the failure of these well-directed endeavours will also be laid before the reader, whom I request then to bear in mind the hasty sketch which I have here given of our irresponsible judicature, and then to decide upon the feelings and intentions of those persons who successfully opposed such salutary, such absolutely necessary reforms.

\* *Sketch of Business*, p. 22.

### CHAPTER III.

*A List of the Governors, from 1791 to the present time—  
Observations on the State of Canada, under Sir James  
Craig—Sir George Prevost—General Drummond—Sir  
John Sherbrooke—The Duke of Richmond—Lord  
Dalhousie.*

AFTER the exposition I have thus given of the Government, and the people to be governed, I shall be more easily understood in the narration which I am now about to commence, of the actual workings of this Government, and of the situation of the people under it.

It is not my intention to give a complete detail of its history, from the period at which our constitution was established down to the present time, but to single out such parts as will enable the reader fully to understand the workings of the system; to obtain a clear idea of the evils we labour under, as well as the remedies which ought to be applied to them. The following is a list of the various Governors who have ruled over Canada, since it was possessed of a free government. Of these reigns, if I may be permitted to use such a phrase, it is my intention to dwell particularly upon that of Sir James Craig, Sir George Prevost, Sir John C. Sherbrooke, and Lord Dalhousie, in order that the reader may perceive the difference of the effect produced by tyrannical and coercive measures, even upon the most tranquil and submissive people, and that resulting from equitable and conciliatory proceedings.

|                                                  |           |                 |
|--------------------------------------------------|-----------|-----------------|
| Alured Clarke, Lieut.-Governor and Com.-in-Chief | -         | 1791.           |
| Lord Dorchester                                  | - - - - - | Sept. 24, 1793. |
| Robert Prescott                                  | - - - - - | 1796.           |
| Sir Robert J. Milnes, Bart., Lieut.-Governor     | - - -     | July 31, 1799.  |
| Hon. Thomas Dunn (President)                     | - - - - - | July 31, 1805.  |
| Sir J. H. Craig, K.B., Governor-General          | - - - - - | Oct. 24, 1807.  |
| Hon. Thomas Dunn (President)                     | - - - - - | June 19, 1811.  |
| Sir George Prevost, Bart. Governor-General       | - - -     | Sept. 14, 1811. |
| Sir Gordon Drummond, G.C.B., Admin.-in-Chief     | -         | April 4, 1815.  |
| Sir Peregrine Maitland                           | - - - - - | 1815.           |
| John Wilson (Administrator)                      | - - - - - | May 22, 1816.   |
| Sir J. C. Sherbrooke, G.C.B., Governor-General   | - -       | July 12, 1816.  |
| Duke of Richmond, K.C.B. Governor-General        | - -       | July 30, 1818.  |
| Hon. James Monk (President)                      | - - - - - | Sept. 20, 1819. |
| Earl of Dalhousie, G.C.B., Governor-General      | - - -     | June 18, 1820.  |

When the Government I have described was conferred upon Canada, the people generally were not in a situation to appreciate its worth, nor to act up to its principles. They had been brought up under a government which allowed them no will of their own in political matters, and they had long learned to submit in silence. The violent conduct of Sir James Craig aroused them from their lethargy. The proceedings of the then government led a body of courageous and instructed individuals to discuss the propriety of its measures. This patriotism—this desire to understand the government of the country, spread far and wide over the remainder of the people, and the whole Canadian nation was almost at one instant changed in their character and their desires.

The Anti-Canadian party was at this period openly supported by the Governor; and an English editor of a newspaper, entitled the *Quebec Mercury*, under the same patronage, indulged in every species of sarcasm against the manners, the habits, the religion, the political feelings, and, above all, the loyalty of the Canadians. This hostility on the part of the Governor—this abuse on the part of his satellite, induced a number of respectable and talented individuals to procure a printing press, for the purpose of

counteracting the effects that might be produced by the false accusations then indulged in. They quickly succeeded in establishing a weekly paper, published in French, and styled *Le Canadien*. The paper war which immediately followed did not fail to inflame the minds of both parties; and Sir James Craig, instead of endeavouring to calm these animosities, and remove the original cause of them, strenuously countenanced the English side, and thus increased the ill-will, on both sides, to a degree absolutely menacing to the interests of the province. He at length committed an act of injustice that no excuse can possibly palliate: he maltreated, degraded, and, in the end, without form or legal process, imprisoned a number of persons, whom he believed, or had been told, were *suspected*. These persons, to his great mortification, he was eventually compelled to release, by an order (it is said) from the Ministers in England. This was done without the slightest attempt having been made to inculcate them, and without the least compensation having been afforded to them for the ill-treatment they had received. It may be well to lay before the reader the circumstances which led to this extraordinary proceeding. At this period, a misunderstanding beginning to arise between England and America, the Governor deemed it necessary to organize a militia. Unfortunately, however, he was made to believe, that arms could not be confided to the Canadians without imminent danger; and some ill-disposed persons succeeded in inflaming his mind to such a degree, that he at length seriously believed the province to be in a state of revolt. The war carried on by the newspapers confirmed this belief. It was reported, and, strange to say, the Governor believed the report, that the French Minister in the United States fostered the rising sedition of the Canadian people; that large sums of money had been transmitted by the French Government, for the support of the insurgents. This idea, although ingenious, was absurd, as future events will sufficiently testify; but nothing appeared strange to the Go-

vernor, who, in the present excited state of his imagination, was ready to give implicit confidence to whatever told to the disadvantage of the Canadian people.

At length there appeared a placard, or hand-bill, signed *L'Ami Sincère*\*. This determined the Governor to seize the press of the *Canadien*, and, on the 17th of March, 1810, a party of military seized both the printing materials and the printer, who, in spite of the immense sums of French money, and, we suppose, to the great astonishment of Sir James Craig, was conducted to prison without opposition—without the slightest tumult. At the same time, and with the same ease and quietness, many other respectable Canadians, among whom were some members of the House of Assembly, were also sent to prison: and thus ended this *dreadful revolution*. Some time after, they were politely requested to leave the gaol in which they had been confined;—no explanations being given—no compensation offered—no justification being required. One of them, however, more obstinate than the rest, refused to depart, unless some process, or trial, should take place; and remained one year longer incarcerated. Perceiving that he gained nothing by thus holding out, he then took his leave of the gaoler. It perhaps may be satisfactory to learn, that, in the succeeding administration, all these injured persons were recompensed by lucrative places; that the printing press was restored to the original proprietors; and that the most obstinate among them, being an advocate, was advanced to the post of a judge.

We may here be permitted to remark, that the recompense thus bestowed was no retribution: it came not from the hand that had worked the evil—it came not from the law, acting as the redresser of wrongs—but was solely the result of the good feeling and good sense of the next governor, using his private judgment; and, though the

\* From this placard, the reader will find some extracts in the Appendix, No. VIII.

world well understood the reason of the favours then bestowed upon these injured persons, no public avowal of misconduct on the part of the former Governor was ever made—no public and formal acknowledgment of the innocence of those he had imprisoned was ever attempted: the illegal act passed off without censure, and might be committed anew, for aught then or since done respecting it.

From this moment, the conduct of Sir James Craig, as well as of those who advised him, became utterly inexplicable. Hitherto he had enjoyed a fair share of popularity: he seemed determined now, however, to omit nothing which might render him obnoxious to the people. He constantly dissolved the Parliament, without the shadow of a pretext; he used insulting language towards the representatives of the people, and acted in every way, and to the highest degree his situation permitted, the imperious and reckless despot. The consequence was, that he inflamed the public mind, brought on discussion, and taught the Canadians to study the constitution which the Imperial Parliament had bestowed on them. They determined to resist, step by step, every encroachment on their rights; and thus the attempts to establish a despotic sway, and to beat down the spirit of the people, served to establish a free government, and create a sturdy independence. From this moment the influence of the popular party, among the Canadians, became paramount; the Canadian and Anti-Canadian parties became permanently and inveterately opposed: all the natives, whether of English or French extraction, now feel the necessity of acting in concert—they feel no longer any shame in acknowledging themselves Canadians. The spirit of nationality is augmenting, and must continue to increase. It has unfortunately, but unavoidably, caused an insurmountable jealousy against the power and dominion of persons sent from England;—persons possessing themselves of all the most important posts in the government;—persons unacquainted with the true interests of the people, and desirous of showing their superiority by continually calum-

niating the habits, feelings, and capacity of a nation, of whom they must, of necessity, be profoundly ignorant.

All these various troubles contributed to form a body of men, possessing talents and patriotism;—men who feel their own importance, who are acquainted with their rights, who perfectly comprehend the principles of their constitution, and who are not of a character likely to retrograde. Having also, during the last American war (as we shall immediately show), had an opportunity of proving their steady adherence to England, they are now no longer open to attacks from their enemies, on the subject of what is impertinently termed their want of loyalty. The following observations of the Comte St. Simon will illustrate the situation of the Canadian people, at the different periods we have gone over:—

“ Une nation peut s’offrir sous trois aspects; se trouver dans trois états divers. Le premier est de ramper sous un gouvernement arbitraire, de se plaire dans sa servitude, et de ne concevoir rien de plus désirable que la faveur de ceux qui gouvernent, rien de plus noble que les distinctions qu’elle donne.” Such was precisely the situation of the Canadian people, under the dominion of the French; and also under that of the English, till the year 1774.

“ Le second est d’avoir su s’élever au-dessus de l’état social, où l’on vit, par les lumières philosophiques et la noblesse des sentimens; de s’être arraché à ces idées de faveur, qu’il faut acheter par des bassesses; d’avoir su qu’il y avait au-delà quelque chose de plus digne de l’homme; et d’y avoir tendu en luttant contre le cours des choses, mais sans chercher à le changer.” Such was the situation of the Canadians from the year 1774; and such was the conduct they pursued, and the feelings they experienced, until they obtained their constitution in 1791.

“ Le troisième et le meilleur, sans doute, est de s’être fait un gouvernement, dont chacun peut être membre, s’il en est digne; d’employer tous ses soins, ses travaux, ses lumières, au maintien et à la perfection de l’ordre social établi.” This last is the situation of England, in imitation of which our

present constitution was established. "Il est beau," adds St. Simon, "sans doute, de s'être élevé à la hauteur des sentimens les plus nobles, du milieu de l'abaissement de la servitude; de s'être dérobé par l'indépendance de la pensée à la gêne d'une domination absolue; mais il est plus beau, je pense, d'avoir su se créer un gouvernement libre, dans lequel on puisse se reposer sans bassesse et sans honte." To this state of feeling and of thought, I am proud to say, the great body of my countrymen have arrived; and the one great cause of its being so early attained, I consider to have been the impotent despotism of Sir James Craig. He irritated, but had not power to subdue; he gave an immediate reason for the people to turn their attention to the government, and that attention he was unable to divert. At length, on the 11th of June, 1811, he embarked for England, to the great contentment of almost the whole population, carrying with him the maledictions of an insulted people, and leaving a disordered government in the hands of the President of the Council, Mr. Dunn, an old man, without much capacity, but who, fortunately, had resided long enough in the country to know all the intrigues, and be on his guard. The province, at this time, was almost in a state of revolt.

To him succeeded Sir George Prevost. The administration of this Governor forms an important epoch in the history of Canada; and satisfactorily proves two assertions we have already hazarded concerning the system of the Canadian Government. The first, that no Governor can long successfully oppose the Executive Council; the second, that just and gentle treatment is the most effectual method of obtaining from the people of the colony whatever their rulers may desire. Until the administration of Sir George Prevost, the Canadians had been treated as a conquered people—as disloyal and seditious subjects, to whom it was dangerous to entrust the defence or the government of their country. Hitherto we have seen them calumniated, maltreated, and despised. What was to be expected from a people whom a certain dominant class was endeavouring,

and, I am sorry to say, is still endeavouring, to represent as unworthy of the confidence of the Government? Whose leading men, instead of being trusted with posts of honour and importance, were treated with insult and ridicule? This assuredly was not the mode by which the nation could be rendered well affected towards the mother country. Sir George Prevost saw the error of former Governors in this respect, and directed his conduct in a widely different course. He trusted and put confidence in the Canadians; he treated them with respect; and thus won their esteem and affection. Why has not this method been since pursued? It is easy for a mother to maintain a good understanding with her children, by according them certain privileges and enjoyments which affect not her maternal authority. England might with ease protect her commerce with her colonies, and at the same time leave the management of their internal affairs to the colonists themselves; these internal affairs would thus be placed in the care of persons known and esteemed by the colonists; and instead of those heart burnings which are now so continued and so bitter, we should then see uninterrupted harmony, and that prosperity which is its necessary accompaniment. The conduct of Sir George Prevost had a tendency to produce this result; and on this account I am desirous of giving a detailed history of his administration, and rendering justice to his *manes*, in as far as my feeble powers permit. Having been an eye-witness of his proceedings; having served under his command during the war he carried on, I feel in some measure entitled to speak with confidence respecting his merits. Perhaps it may be thought not within my province to praise his military plans and conduct; I assuredly, however, am as well (I believe I may say, without vanity, better) qualified to praise, than many others (who have taken upon themselves that task) to blame that conduct. I shall hazard the undertaking, however presumptuous it may seem.

When Sir George Prevost succeeded to the government, he was compelled, alone, and without assistance, to devise

plans for the defence of the country. The Americans threatened an immediate invasion, calculating, from the previously disturbed state of the colony, that they should meet with little resistance from the inhabitants. These inhabitants, however, the Governor found to be his only support; and those very men, who a few weeks before had been accused of sedition—those very representatives, who had been insulted and injured, furnished him with every possible supply for the army he had under his command, and organized a militia which, almost entirely without assistance from England, resisted the invasion of the Americans.

On the 24th of June, 1812, it was known at Quebec, that war was declared between America and England. This event created no surprise, such a result having long been expected; and the people now prepared for their own defence. Four battalions of militia were immediately raised; a provincial corps, the Canadian Voltigeurs, was organized and equipped in the short space of six weeks, by the liberality of the officers, who were chosen from among the younger part of the most respectable Canadian gentry\*; and a spirit of military enthusiasm was quickly excited by the politic conduct of the commander-in-chief.

Upon the opening of the Provincial Parliament, the Governor, after briefly informing the Parliament of the recent declaration of war by America, said, "he relied upon the spirit of His Majesty's subjects in the province, their attachment and zeal for the religion of their forefathers, their loyalty to their sovereign, and their ardent love for the true interests of their country; and that he should depend implicitly, under Divine Providence, upon their best exertions, aided by the courage and loyalty of the militia, and by the valour, skill, and discipline of His Majesty's regular forces†,

\* It were to be wished that many of the officers, who then mainly assisted in the raising this and other corps, which proved so useful in the defence of the colony, had been better treated after the war was at an end. Things, however, wear a very different aspect when service is no longer required.

† The regular forces in Canada amounted to no more than 4000 men.

for repelling every hostile attempt that might be made upon the colony\*." Certainly, a remarkable change this, in the language of the Government!

Again, on the 29th of December, 1812, he thus addressed the House :—

" I have received His Royal Highness the Prince Regent's *express commands*, to thank you, in his name, for the assurances of support and attachment which the address of the House contains; and to acquaint you, that His Royal Highness places that confidence in the courage and loyalty of His Majesty's *Canadian subjects*, which makes him equally fearless of the result of an attack upon them, and of any insidious attempts to alienate their affection from his government."

To show the reader that this confidence was not undeserved, I quote the following extract from the Governor's speech of the 13th of January, 1814 :—

" In reviewing the events of the late war, I cannot but contemplate, with pride and satisfaction, the zealous discharge of duty which I have witnessed, as well in the militia as in all classes of His Majesty's subjects in this province; which I consider the surest indication of their loyalty to their sovereign, and of their determination to defend, to the last extremity, this valuable portion of his dominions."

The Governor, perceiving that extraordinary expenses must be undergone, with great delicacy and tact prepared the House of Assembly for a message which he eventually sent down on the subject. The object of the message was, that as there was no money in the coffers of the government, to issue army bills, payable either in cash or in government bills of exchange in London. This measure was approved by the House of Assembly, and a Bill to facilitate the circulation of army bills was introduced; and the liberality of the House of Assembly surpassed the hopes of the Executive. £.15,000 were granted to pay the interest that might become

\* *Memoirs*, by ROBERT CHRISTIE, Esq., p. 46.

due upon army bills, of which £.250,000 were authorised to be put in circulation (large bills, of twenty-five dollars and upwards, bearing interest at the rate of four-pence per day for every £.100.); they were made current in the revenue, were to have the effect of a legal tender, and were redeemable at the Army Bill Office, either in cash or government bills of exchange on London, at the option of the commander of the forces. Small bills of four dollars were at all times payable, in cash, at the Army Bill Office. All contracts, in which any distinction should be made between army bills and cash, were to be void; and at the expiration of five years, all those who might be holders of such army bills were entitled to receive the amount of the same, with the interest due upon them, out of the Provincial Treasury. To defray the expenses of the Army Bill Office, in issuing, circulating, and cancelling the army bills, the Legislature also granted the further sum of £.2,500 per annum. On the 1st day of August, 1812, this Bill received the royal sanction; and the Governor prorogued the Parliament, with acknowledgments for the liberal aid they had granted him to meet the exigencies of the public service. This seasonable provision of the Legislature at once enabled the Government to meet the demands of the public service, and revive the public spirit. A want of means, at so urgent a crisis, must have paralysed the energies of Government; and this circumstance alone might have created a doubt in the minds of the Canadians of the indifference of the mother country towards the colony, that would have induced a despondency fatal to the provinces\*.

General Prevost was, without contradiction, the first Governor who properly appreciated the feelings of the Canadian people; and we may see that, in as far as the people's representatives were able, he was fully recompensed for his good feeling. The critical situation in which he found himself, and that which, in all cases, weighs more than feelings of

\* CHRISTIE'S *Memoirs*, p. 43.

immediate interest with a high-minded gentleman, sentiments of honour and honesty, induced him to pursue this path ; by which conduct, indeed, he saved an important colony, but injured his own personal interests. The reproaches that have been heaped upon him, are pretended to be grounded on his ill success in his military expeditions : this ill success is but a pretence, the real cause of displeasure being his impartial behaviour towards the whole people whom he governed. To those who will take the pains fully to investigate his military conduct, it will appear throughout, to have been directed by prudence and forethought ; he will be found to have sacrificed nothing to his personal vanity, but to have been guided, rather by the cool calculation of a general, than the blind and headlong fury of a soldier. True it is, that he was unsuccessful in his expedition at Plattsburg ; true it is, that our whole fleet was captured ; and true it is, that the General determined to retreat : the loss was not the consequence of the General's want of forethought or skill, but his want of fortune : the retreat was not the consequence of want of courage, but the dictate of sound sense and humanity. Had he persisted in his enterprise, a large number of men must have been lost, without the possibility of maintaining the post for an instant ; and thus, for the mere purpose of performing a brilliant action, he would have uselessly sacrificed a large portion of his army. This, however, as I have already observed, was but the pretence ; the real cause of hatred to him originated in a far different source.

From the moment that Sir George Prevost took the reins of government, he endeavoured, as much as his power permitted, to recompense, by honourable and lucrative situations, those persons who had been ill-treated by his predecessor. He assembled around him every person who possessed the esteem of the Canadian public, and thus formed a powerful Canadian party ; re-established confidence in the minds of the inhabitants, and softened, by acts of clemency, the rigour of the measures pursued in former administrations. By this means he made implacable enemies in the opposite party,

who did not fail to attempt his ruin. He, nevertheless, steadily pursued the same conduct, contemned their endeavours, and forced them, eventually, to feel an unwilling respect for him. Unfortunately, he was surrounded by persons of whom he was necessarily suspicious; he was ill supported by his staff, and believed it absolutely necessary for him to be in the field, when he ought to have been employed in the cabinet. Two expeditions, in which he commanded in person, were unsuccessful; and no more was required for his enemies to attempt his ruin. Different representations were made against him in England, which induced him, unfortunately, to undertake a painful and dangerous voyage to Europe, on purpose to justify his conduct. Four heads of accusation were brought against him, by Sir James L. Yeo; and to these he was endeavouring to answer. Lest he should lose time, he left Quebec on the 3rd of April, with the intention of proceeding to Halifax, or St. John's, New Brunswick, traversing three-fourths of the time, on foot, woods buried in snow; he arrived at Halifax, and embarked for England.

On the 25th of March, 1815, previous to his departure, he prorogued the Provincial Parliament; informed them that he was commanded by the Prince Regent to return to England; that it was his intention to depart immediately, in order to defend his character, which had been assailed by the naval commander who had acted in conjunction with him on the lakes.

“ However intent (said he) on the subject that thus summons my attention, be assured I shall bear with me a lively recollection of the firm support I have derived from you; and I shall be gratified, at an early period, in representing, personally, to His Royal Highness the Prince Regent, the zeal and loyalty evinced by every class of His Majesty's subjects in British North America, during my administration, their attachment to his august person and government, and, most particularly, the spirit and devotion manifested by the people of the Canadas, in the late contest with the United States of America.”

The fatigues of his painful voyage, combined with a delicate constitution, and the inquietude of mind caused by the accusations brought against him, caused his death, before opportunity was afforded of justifying his conduct. It is satisfactory to learn, however, that justice was done to his memory; that his great services have been properly appreciated, and the calumnies against his character have met the contempt and refutation they have so richly deserved.

By this stroke of political intrigue, the Canadians found themselves suddenly deprived of a Governor who appreciated their merits; the House of Assembly showed its attachment to his person and his measures, by voting the sum of £.5000 sterling, for the purpose of buying a service of plate, to be presented to him, in remembrance of their gratitude for the services he had rendered; the Legislative Council, however, opposed the grant, thus showing where the real enemies of Sir George Prevost were to be found; and directing the attention of every man of common sense to the causes which rendered him unpopular with the class to which they belonged. It is to be regretted, that the Canadians have not yet erected a monument to his memory, in acknowledgment of his meritorious services, as the founder of their constitutional rights.

Let all those who have blamed, and who yet blame, the military conduct of Sir George Prevost (his civil government has, by every one, been acknowledged to be beyond all praise); let them, I say, recollect, that he was chosen Governor-in-Chief at the commencement of a war with America; that in the whole country there were only 4000 regular troops to defend an immense frontier; that there was no organized militia; and that the Canadian population were far from well disposed under the preceding administration; and then let them remember the promptitude with which the battalions of militia and other provincial forces were collected and established; with what judgment the exposed points of the country were fortified; with what enthusiasm the unoccupied militia, when needed, offered their assistance; let them, I say, recollect all these things, and then state, to what else than the

talents of the Governor they ought to be ascribed? Let the public remember, that to Sir George Prevost it is alone owing, that Canada is now a part of the British dominions; and then let them ask, if he deserved the treatment he received?

“Peuples, dont la douleur aux larmes obstinée,  
De ce Prince chéri déplore le trépas,  
Approchez, et voyez, quelle est la destinée  
Des grandeurs d'ici bas\*.”

I should not so long have dwelt upon the administration of Sir George Prevost, had it not been intimately connected with the cause of the Canadian people; and had it not been an admirable illustration of the effects of the present system of our Government. I will here close my remarks on his conduct by the following extract:—

“The administration of the civil government of Lower Canada, under Sir George Prevost, was mild, equitable, and unquestionably popular, among the entire mass of the Canadian population; in whose loyalty, from the commencement, he placed the most implicit confidence. To their fidelity, and to the prudent and conciliating policy of the Governor, Great Britain is indebted for the preservation of the Canadas, unavoidably left destitute of money and troops, at the outset of hostilities with America, by reason of the urgent demands of the war in Spain. The provincial Legislature, by giving a currency to army bills, and guaranteeing their redemption, effectually removed all apprehensions of a deficiency in the financial resources of the colonial government. The organization of a respectable force of embodied militia, and the power delegated to the Governor of turning out the whole of the effective male population of the province, in cases of emergency, enabled him to withstand the efforts of the United States during two successive campaigns, with scarcely any other resources than those derived from the colony. They who had been partial to the preceding administration, and who, probably, may have been instrumental in the arbitrary measures with which it is reproached, were, as might be

\* J. B. ROUSSEAU, *Ode sur le Prince de Conti*.

expected, adverse to the policy of the present Governor, and spared no pains to represent in England the affairs of the colony in the falsest colours. The disappointments experienced at Sackett's Harbour and Plattsburg, gave occasion to his enemies to discredit his military character; but, whatever may have been his capacity as a general (which we leave to the judgment of military men), it must be admitted, that, as a civil Governor, at the head of a people irritated by arbitrary measures under the preceding administration, he judiciously explored his way, through a period of unprecedented embarrassments and danger, without a recurrence to martial law, or the least exertion of arbitrary power. His manners are represented, by those who were familiarly acquainted with him, as unassuming and social; his public speeches, or addresses, partook of even a classic elegance; his smooth and easy temper placed him beyond the ordinary passions of men in power; and, though aware of the intrigues of unprincipled and implacable enemies, labouring at his destruction, and loaded with the obloquy of the press, he is known to have harboured no resentment against the former, and to have reasoned with that coolness and unconcern with respect to the latter, which can only spring from a virtuous and ingenuous mind\*."

Immediately upon the departure of Sir George Prevost, the government of the country was assumed by General Drummond, who had greatly distinguished himself during the campaign in Upper Canada. The intimacy which had existed between him and Sir James Craig, was, in the opinion of the Canadians, no favourable augury as to the conduct he would pursue. His administration, though short, gave evidence that the people had judged correctly. A dispute at this time arose between the Government and the House of Assembly, the history of which it is of importance to relate.

During the administration of Sir George Prevost, seventeen heads of accusation were carried, in the House of Assembly,

\* CHRISTIE'S *Memoirs*, Postscript.

against the two Chief Justices of the province : the matter of these accusations was, that they, the judges, had given illegal advice to Sir James Craig in 1810, and unconstitutionally aided his arbitrary proceedings ; and that they had gone beyond their legal powers, in introducing certain rules of practice into their respective courts. The Governor was requested to transmit the accusations to England : he did so, but no favourable answer having been returned, and the matter having laid at rest in England a year before it was noticed, the House considered it requisite to choose an agent for the purpose of supporting and furthering their complaints. The House also voted the impeachment of the judges, and presented a request to Governor Sir George Prevost, to suspend them from the exercise of their judicial functions, and at the same time to transmit to the Prince Regent the accusations drawn up. The Legislative Council refused to join in this proceeding, and resolved, that the Lower House possessed *no right of impeachment*. The Governor, in consequence, refused to comply with the request of the House of Assembly, stating to the deputation of the House, that, without the concurrence of the Legislative Council, he deemed the measure *unconstitutional*. The House was exceedingly dissatisfied by the answer of the Governor, and finished by resolving,—“ That His Excellency the Governor in Chief, by his answer to the address of the House, had violated the constitutional rights and privileges thereof.” The Legislative Council having refused their assent to the Bill, raising money for the support of an agent, that project of the Lower House necessarily failed. Their complaints, however, were, in spite of the Governor’s former opinion, transmitted to England ; but, as no agent was there to explain their grievances, and as the Chief Justice was allowed to depart to England, in order to defend himself, it is nothing wonderful, that the accusations of the people’s representatives failed of producing their proper effect.

As the political influence of the Chief Justice of the province, the Honourable Jonathan Sewell (certainly a man

of superior abilities), has been, in the opinion of many persons, most injurious to the interests of the country, I shall be somewhat minute in the detail I shall give of the fate of the accusations brought against him by the House of Assembly.

When Mr. Sewell reached England, he found Lord Bathurst disposed to listen to his statements, and believe his insinuations against the characters of his accusers. Interest, on the part of one of the chief leaders of the Canadian party, was by him stated to have given rise to the present storm. Mr. James Stuart, now Attorney-General of Lower Canada, was, in 1810, abruptly dismissed from the situation of Solicitor-General, and that important office was conferred upon a person of the name of Sewell. The anger felt by Mr. Stuart, on account of this proceeding, was asserted to be the real cause of the persecution, as it was termed, of the Chief Justice ; and the statements of the Assembly to be mere figments used to colour, and lend a sanction to private malice. Lord Bathurst, and consequently the Privy Council, were, for many reasons, willing to give ear to such an explanation, and fancied that the originating cause of an accusation being found, or supposed to be found, nought but private malice, the truth of the accusation of itself was a matter of no moment, inasmuch as private malice might be believed to have given birth to the accusations ; insomuch was it requisite to investigate with care and suspicion the evidence by which they were to be supported. The accusation, however, ought to have been tried by its own merits ; and, supposing it to have been discovered to be founded in truth, no matter what called it into existence, the culprits ought to have been punished. The Privy Council reasoned not in this manner, but unceremoniously dismissed the complaints of the House. General Drummond, now the Governor, communicated this intelligence to the House, saying, that the Privy Council of His Majesty, to whom their complaints and impeachments had been submitted, had decided that they were ill founded, and consequently they had been *dismissed*, and that this

decision had been approved of by the Prince Regent. The House was justly indignant at this cavalier treatment, having, without doubt, a right to complain and to be heard. To this right, however, the Privy Council had paid no regard. The House, therefore, ordered a general call of the members, to take this affair into their most serious consideration, and selected a special committee, to inquire into the most efficacious means of giving effect to their complaints. This committee, trusting to the justice of His Majesty's Government, was of opinion, that the Commons of Lower Canada should present a petition to the Prince Regent, praying him to give them an opportunity of exposing their grievances, in accordance with the right which justly belonged to them. The public was now in a state of great excitement, and all other business in the House was suspended, when, on a sudden, and quite unexpectedly, the Parliament was dissolved. This conduct on the part of the Governor, General Drummond, as might be expected, created great dissatisfaction, and gave an opportunity to Sir John Sherbrooke (who succeeded General Drummond on the 12th of July, 1816) of exercising the remarkable talent he possessed in conciliating all parties, and of inducing the popular leaders to abandon a measure that, for two sessions, had occupied the whole attention of the Assembly.

Before I proceed to explain the cause of this latter conduct in the House, I am desirous of laying before my reader an extract of the accusations brought by them against the Chief Justice of the province, Jonathan Sewell, Esq., and the Chief Justice of the Court of King's Bench, for the district of Montreal, James Monk, Esq.\*

“ HOUSE OF ASSEMBLY.

“ *Saturday, February 26, 1814.*

“ Mr. Stuart, from the committee appointed to prepare

\* See the *Proceedings in the Assembly of Lower Canada on the Rules of Practice of the Courts of Justice, and the Impeachments of Jonathan Sewell and James Monk, Esqrs.*—Printed by order of the House, 1814.

heads of impeachment against Jonathan Sewell, Esq., Chief Justice of the province, and James Monk, Esq. Chief Justice of the Court of King's Bench, for the district of Montreal, acquainted the House, that the committee had prepared heads of impeachment accordingly, and also a humble representation to His Royal Highness the Prince Regent, which they had directed him to report to the House; and he read the report in his place, and afterwards delivered it in at the table, where the same was read, and the said heads of impeachment and humble representation, so reported, are as follow:—

“ Heads of impeachment of Jonathan Sewell, Esq., Chief Justice of the province of Lower Canada, by the Commons of Lower Canada, in this present Provincial Parliament assembled, in their own name, and in the name of all the Commons of the said province.

“ *First*,—That the said Jonathan Sewell, Chief Justice of the province of Lower Canada, hath traitorously and wickedly endeavoured to subvert the constitution and established government of the said province, and instead thereof, to introduce an arbitrary tyrannical government, against law, which he hath declared by traitorous and wicked opinions, counsel, conduct, judgments, practices, and actions.

“ *Secondly*,—That, in pursuance of those traitorous and wicked purposes, the said Jonathan Sewell hath disregarded the authority of the Legislature of this province, and in the courts of justice wherein he hath presided and sat, hath usurped powers and authority which belong to the Legislature alone, and made regulations subversive of the constitution and laws of this province.

“ *Thirdly*,—That the said Jonathan Sewell, being Chief Justice of this province, and President of the Provincial Court of Appeals, in pursuance of the traitorous and wicked purposes aforesaid, did, on the 19th day of January, in the year of our Lord 1809, make and publish, and cause to be made and published, by the Court of Appeals, various regulations, under the name of ‘ Rules and Orders of Practice,’

repugnant and contrary to the laws of this province, whereby the said Jonathan Sewell, wickedly and traitorously, in so far as in him lay, endeavoured and laboured to change, alter, and modify, and to cause to be changed, altered, and modified, by the said Court of Appeals, the laws of this province, which he was sworn to administer; and assumed legislative authority, and by the said regulations imposed illegal burthens and restraints upon His Majesty's subjects in the exercise of their legal rights, and attributed to the said Court unconstitutional and illegal powers and authority, altogether inconsistent with the duties of the said Court, and subversive of the liberty and just and legal rights of His Majesty's subjects in this province.

*“ Fourthly,*—That the said Jonathan Sewell, being Chief Justice of this province, and as such presiding in His Majesty's Court of King's Bench for the district of Quebec, in pursuance of the traitorous and wicked purposes aforesaid, did, in the term of October, in the year of our Lord 1809, make and publish, and cause to be made and published, by the said last-mentioned Court, various regulations, under the name of ‘ Rules and Orders of Practice,’ repugnant and contrary to the law, &c., &c.

*“ Fifthly,*—That the said Jonathan Sewell, being such Chief Justice and President of the Provincial Court of Appeals, as aforesaid, and as well by the duties as the oaths of his offices, bound to maintain, support, and administer, the laws of this province, and award justice to His Majesty's subjects according to the said laws, hath, nevertheless, in contempt of the said laws, and in violation of his said duty and oaths, set aside the said laws, and substituted his will and pleasure instead thereof, by divers unconstitutional, illegal, unjust, and oppressive rules, orders, and judgments, which he hath made and rendered, to the manifest injury and oppression of His Majesty's subjects in this province, and in subversion of their most important political and civil rights.

*“ Sixthly,*—That the said Jonathan Sewell, being Chief

Justice, as aforesaid, and also Speaker of the Legislative Council of this province, and Chairman of His Majesty's Executive Council therein, did, by false and malicious slanders against His Majesty's Canadian subjects, and the Assembly of this province, poison and incense the mind of Sir James Craig, being Governor-in-Chief of this province, against them, and mislead and deceive him in the discharge of his duties as such Governor; and did, on the 15th day of May, in the year of our Lord 1809, advise, counsel, and induce the said Sir James Craig, being Governor-in-Chief, as aforesaid, and being under the influence of the false and pernicious suggestions of the said Jonathan Sewell, as aforesaid, to dissolve the Provincial Parliament, without any cause whatever to palliate or excuse that measure; and did also counsel, advise, and induce the said Sir James Craig to make and deliver, on that occasion, a speech, wherein the constitutional rights and privileges of the Assembly of Lower Canada were grossly violated, the Members of that body insulted, and their conduct misrepresented.

*“Seventhly,*—That the said Jonathan Sewell, being such Chief Justice, Speaker of the Legislative Council, and Chairman of the Executive Council, as aforesaid, in pursuance of his traitorous and wicked purposes aforesaid, and intending to oppress His Majesty's subjects and prevent all opposition to his tyrannical views, did counsel and advise the said Sir James Craig, being Governor-in-Chief, as aforesaid, to remove and dismiss divers loyal and deserving subjects of His Majesty from offices of profit and honour, who were accordingly so removed and dismissed, without the semblance of reason to justify it, but merely because they were inimical, or supposed to be inimical, to the measures and policy promoted by the said Jonathan Sewell, and in order, in one instance, to procure the advancement of his brother\*.”

\* “Among the arbitrary measures which characterize the times (1810), the dismissal of the Solicitor-General, James Stuart, Esq., from his office, without

“*Eighthly*,—That the said Jonathan Sewell, &c., &c., induced Sir James Craig to dismiss Jean Antoine Panet, Esq. who had been during fifteen years, and was still, Speaker of the House of Assembly, from His Majesty’s service as Lieutenant-Colonel of a battalion of militia, without any reason, &c., &c.

“*Ninthly*,—That the said Jonathan Sewell, regardless of the dignity and duties of his high offices, persuaded and induced Pierre Edward Desbarats, printer of the laws of the province, to establish a newspaper, under the name of the *Vrai Canadien*, to promote his factious views, and for the purpose of calumniating and vilifying part of His Majesty’s subjects, and certain Members of the Assembly, who were obnoxious to the said Jonathan Sewell, &c., &c.

“*Tenthly*,—That the said Jonathan Sewell, in pursuance of his traitorous and wicked purposes aforesaid, and intending to extinguish all reasonable freedom of the press, destroy the rights, liberties, and security of His Majesty’s subjects in this province, and suppress all complaints of tyranny and oppression, did, in the month of March, in the year of our Lord 1810, counsel, advise, promote, and approve the sending of an armed military force to break open the dwelling house and printing office of one Charles Lefrançois, being one of His Majesty’s peaceable subjects in the city of Quebec; and there arrest and imprison the said Charles Lefrançois, and seize and bring away forcibly a printing press, with various private papers; which measure of lawless violence was accordingly executed, and the said press and papers have since remained deposited in the court-house in the city of Quebec, with the knowledge and approbation, and under the eye of the said Jonathan Sewell.

“*Eleventhly*,—That the said Jonathan Sewell, &c., &c., with the intention of oppressing individuals supposed to be

any other ostensible reason than his independent conduct as a Member of the House of Assembly, is not the least remarkable. He was succeeded by Stephen Sewell, Esq., an advocate at Montreal.”—CHRISTIE’S *Memoirs*.

suspicious of his character and views and inimical to his policy, &c., &c., did counsel, advise, promote, and approve the arrest of Pierre Bedard, François Blanchet, and Jean Thomas Tachereau, Esquires, upon the false and unfounded pretext of their having been guilty of treasonable practices, whereby they might be deprived of the benefit of bail, and, by means of the influence derived from his high offices under the Government, caused them to be imprisoned on the said charge, in the common gaol of the district of Quebec, for a long space of time, and at length to be discharged without having been brought to a trial.

“ *Twelfthly*,—That the said Jonathan Sewell, &c., &c., instigated and promoted various acts of tyranny and oppression similar to those last mentioned, in other parts of the province, whereby divers individuals, upon the false pretext of having been guilty of treasonable practices, were exposed to unjust prosecutions, imprisoned, and oppressed, and one of them, François Corbeil, being old and infirm, was by the rigour of his imprisonment deprived of life, and whereby general alarm and apprehension were excited in His Majesty’s subjects.

“ *Thirteenthly*,—That the said Jonathan Sewell, &c., &c., on the 21st day of March, 1810, being a time when profound tranquillity prevailed in the province, &c., &c., did wickedly infuse into the mind of the said Sir James Craig, being Governor-in-Chief, as aforesaid, the most false and unfounded suspicions of alarm respecting the dispositions and intentions of His Majesty’s Canadian subjects, and did counsel, advise, and induce the said Sir James Craig to issue a proclamation\*, extraordinary and unprecedented, as well in style as in matter, &c., &c.; wherein such statements were made as implied that the province was in a state approaching open insurrection and rebellion, whereby the character of His Majesty’s Canadian subjects was most

\* This proclamation will be found in the Appendix (Letter B.) to Christie’s Memoirs.

falsely calumniated, and foreign states may have been drawn, and there is the greatest reason to believe, from subsequent events, were drawn, into a belief of such disloyalty in His Majesty's Canadian subjects as would render the province an easy conquest\*.

“*Fourteenthly*,—That the said Jonathan Sewell, &c., &c., did labour and endeavour, by means of his official influence, to extend and confirm the unfounded imputations made, and alarm excited by the said proclamation; and in the term of the Court of Criminal Jurisdiction, held in the said month of March 1810, read the said proclamation in open court, for the purpose of influencing the minds of the grand and petit juries in the exercise of their respective duties.

“*Fifteenthly*,—That the said Jonathan Sewell, &c., &c., hath laboured and endeavoured to produce, in His Majesty's Government, an ill opinion of His Majesty's Canadian subjects, with a view to oppress them, and favour the progress of American influence in this province, and promote the advantageous establishment of Americans, &c., &c., to the great prejudice and injury of His Majesty's Canadian subjects, and with a view to the subversion of His Majesty's Government.

“*Sixteenthly*,—That the said Jonathan Sewell, &c., &c., influenced by a desire to accelerate a political connection of this province with part of the United States of America, and to deprive His Majesty's Canadian subjects of their present constitution and laws, did, in or about the month of January, in the year of our Lord 1809, enter into a base and wicked confederacy with one John Henry, an adventurer of suspicious character, for the purpose of sowing and exasperating dissension among the subjects of the government of the said United States, and producing among them insurrection and rebellion, and a consequent dismemberment of the Union; and, in furtherance of the

\* The reader will easily comprehend, after the perusal of these accusations, what we have previously stated respecting the judicious conduct of Sir George Prevost.

objects of the said confederacy, did, by artful and false representations, counsel, advise, and induce Sir James Craig, being Governor-in-Chief of this province, to send the said John Henry on a mission to the said United States, whereby the attainment of the views of the said Jonathan Sewell was to be promoted, and the said Jonathan Sewell became and was a channel for the correspondence of the said John Henry respecting his mission aforesaid; by which conduct the said Jonathan Sewell hath exposed His Majesty's Government to imputations reflecting on its honour, and hath rendered himself unworthy of any place of trust under His Majesty's Government\*.

“*Seventeenthly*,—That the said Jonathan Sewell, &c., &c., hath laboured and still doth labour to promote disunion and animosity between the Legislative Council and Assembly of this province, and hath exerted his influence as Speaker as aforesaid, to prevent the passing, in the said Council, of salutary laws, which had been passed in the said Assembly; and hath, during the present war with the United States of America, fomented dissension among His Majesty's subjects in this province, and endeavoured, by various acts and practices, to prevent a reliance on the loyalty and bravery of His Majesty's Canadian subjects, and produce a want of confidence in the administration of His Majesty's Government, and thereby weaken its exertions.

“For all which crimes and misdemeanours, &c., &c., above mentioned, the said Commons do impeach the said Jonathan Sewell, hereby reserving to themselves the liberty of exhibiting, at any time hereafter, any other accusation or impeachment against the said Jonathan Sewell, and adopting such conclusions and prayer upon the premises, as law and justice may require.”

\* I have heard some American gentlemen say, that this business of Henry, and our useless expedition to New Orleans, contributed more than any thing else to raise the spirit of the nation, and to destroy the unpopularity of the late war in the United States.

Heads of impeachment of James Monk, Esq. &c., &c. :—

“ *First*,—That the said James Monk, Chief Justice of His Majesty’s Court of King’s Bench for the district of Montreal, in the province of Lower Canada, hath traitorously and wickedly endeavoured to subvert the constitution and established government of the said province, and instead thereof to introduce an arbitrary tyrannical government, against law, which he hath declared by traitorous and wicked opinions, counsels, conduct, judgments, practices, and actions.

“ *Secondly*,—That, in pursuance of those traitorous and wicked purposes, the said James Monk hath disregarded the authority of the Legislature of this province, and in the courts of justice wherein he hath presided and sat, hath usurped powers and authority which belong to the Legislature alone, and made regulations subversive of the constitution and laws of this province.

“ *Thirdly*,—That the said James Monk, &c., &c., did, on the nineteenth day of January, in the year of our Lord 1809, make, consent to, concur in, approve, and publish, and caused to be made and published, by the Court of Appeals, various regulations, under the name of ‘ Rules and Orders of Practice,’ in the Provincial Court of Appeals, repugnant and contrary to the laws of this province, &c., &c. ; and, by the said regulations, imposed illegal burthens and restraints upon His Majesty’s subjects in the exercise of their legal rights, and attributed to the said Court unconstitutional and illegal powers and authority, altogether inconsistent with the duties of the said Court, and subversive of the liberty and just and legal rights of His Majesty’s subjects in this province.

“ *Fourthly*,—That the said James Monk, &c., &c., did, in the term of February 1811, make and publish, and cause to be made and published, by the said last-mentioned Court, various regulations, under the name of ‘ Rules and Orders of Practice,’ repugnant and contrary to the laws of this province, by which regulations the said James Monk, in so

far as in him lay, endeavoured and laboured to change, alter, and modify, the laws of this province, &c., &c.

“*Fifthly*,—That the said James Monk, &c., &c., bound, by the oaths of his offices, to maintain, support, and administer the laws of this province, hath, nevertheless, in contempt of the said laws, and in violation of his said duties and oaths, set aside the said laws, and substituted his will and pleasure instead thereof, &c., &c.

“*Sixthly*,—That the said James Monk, &c., &c., hath, in the exercise of his judicial powers, openly and publicly ascribed to the said Court of King’s Bench the power of altering, changing, and modifying the laws of this province, and hath alleged and declared that such power had been recognized by all the judges of the law in the Provincial Court of Appeals, and on such, his false, traitorous, and wicked opinions and declarations, hath founded judgments of the said Court.

“*Seventhly*,—That the said James Monk, &c., &c., hath, contrary to his duty and in contempt of the laws of the province, denied writs of *Habeas Corpus* to persons legally entitled to them, &c., &c.

“*Eighthly*,—That the said James Monk, &c., &c., hath, in certain cases, promoted, counselled, and advised criminal prosecutions, and hath afterwards exercised his judicial powers, as Chief Justice, and hath sat in judgment upon such prosecutions.

“All which crimes and misdemeanours, above mentioned, were done and committed by the said James Monk, Chief Justice of the Court of King’s Bench for the district of Montreal, &c., &c.

“For all which the said Commons do impeach the said James Monk, &c., &c.”

And now, for the purpose of showing that the political substance of these was not considered by the Privy Council, viz. what related to his private advice to Sir James Craig, I insert the Order in Council on the subject, of the 29th of June, 1815:—

*" At the Court of Carlton House, the 29th of June, 1815,*

*" PRESENT,*

*" His Royal Highness the Prince Regent in Council.*

*" Whereas there was this day read at the board a report from a Committee of the Lords of His Majesty's Most Honourable Privy Council, dated the 24th of this instant, in the words following, viz.:—*

*" Your Royal Highness having been pleased, by your Order in Council of the 10th of December instant, in the name and on behalf of His Majesty, to refer unto this Committee a letter from Earl Bathurst, one of His Majesty's Principal Secretaries of State, to the Lord President of the Council, transmitting a copy of a letter from Sir George Prevost, dated Quebec, the 18th of March, 1814, forwarding an address of the House of Assembly of Lower Canada to your Royal Highness, with certain articles of complaint therein referred to, against Jonathan Sewell, Esq., His Majesty's Chief Justice of the province of Lower Canada, and James Monk, Esq., Chief Justice of the Court of King's Bench for the district of Montreal; and also transmitting a memorial from the Executive Council, Judges in the Court of Appeals, and of the Puisne Judges of the Court of King's Bench for the district of Quebec, and of the Court of King's Bench for the district of Montreal, in the said province of Lower Canada, praying to be included in the examination and decision of the said articles of complaint, together with a petition from the said Jonathan Sewell, Esq.; in which letter the said Earl Bathurst requests that so much of the said complaints of the House of Assembly as relate to the rules of practice stated to have been introduced by the said chief justices into their respective courts, may be submitted to your Royal Highness in Council, in order that, if such rules shall be found to have been introduced, it may be decided whether, in so doing, the said chief justices have exceeded their authority.*

*" The Lords of the Committee, in obedience to your Royal Highness's said order of reference, have taken the*

said letter and its inclosures into consideration, and having received the opinion of His Majesty's Attorney and Solicitor General, and been attended by them thereon, and having maturely deliberated upon the complaints of the said House of Assembly, *so far as they relate to the said rules of practice*, their lordships do agree humbly to report, as their opinion to your Royal Highness, that the rules which are made the subject of such complaints of the said House of Assembly of Lower Canada, against the said chief justices, Jonathan Sewell, Esq., and James Monk, Esq., which their lordships observe were not made by the said chief justices respectively, upon their own sole authority, but by them, in conjunction with other judges of the respective courts, are all rules for the regulation of the practice of their respective courts, and within the scope of that power and jurisdiction with which, by the rules of law and by the colonial ordinances and acts of legislation, these courts are invested; and, consequently, that neither the said chief justices, nor the courts in which they preside, have, in making such rules, exceeded their authority, nor have been guilty of any assumption of legislative power."

"His Royal Highness the Prince Regent, having taken the said report into consideration, was pleased, in the name and on behalf of His Majesty, and by and with the advice of His Majesty's Privy Council, to approve thereof, and to order, as it is hereby ordered, that the said complaints, *so far as they relate to the said rules of practice*, be, and they are hereby, dismissed this board."

(Signed)

"JAS. BULLER.

(Signed)

"G. D."

Whether these complaints were just or unjust, the House of Assembly, in our opinion, had a right to be heard; and they, very properly, felt indignant at the manner in which their complaints had been disposed of, and on the 14th of February, 1816, after a call of the House, referred this important subject to the consideration of a special committee,

with directions to report their opinion on the most expedient manner of proceeding on the same.

*Resolutions of the Committee, reported to the House  
on the 23rd of February, 1816.*

“Resolved, as the opinion of this Committee, that the resistance and opposition of the Legislative Council, of which the said Jonathan Sewell and James Monk were and are members, to the rights of the Commons of Lower Canada, to exhibit the said charges, and the obstructions subsequently interposed to the prosecution of them, prevented this House from being represented by an agent to maintain and support the charges.

“Resolved, as the opinion of this Committee, that this House has always been, and is desirous of an opportunity of being heard on the said charges, and of supporting them by evidence, and hath reason to lament that no such opportunity hath hitherto been offered to them.

“Resolved, as the opinion of this Committee, that a humble representation and petition, on the behalf of the Commons of this province, to His Royal Highness the Prince Regent, be prepared, appealing to the justice of His Majesty's Government, and praying that an opportunity may be afforded to His Majesty's dutiful Commons of this province to be heard upon and maintain the said charges.”

This determination of the House, apparently, caused the dissolution of Parliament, for Sir Gordon Dummond, in his speech, expressed his regret that they should have allowed any consideration to overbear the respect due to the decision of His Royal Highness the Prince Regent; and announced his determination to prorogue the present Parliament, and recur to the sense of the people, by an immediate dissolution\*.

If these accusations were true and important in 1815, it may easily be supposed that they were equally true and

\* CHRISTIE'S *Memoirs*.

equally important in the year 1817. In the eyes of the Assembly, however, such appears not to have been the fact. On a sudden, in a manner totally inexplicable, they abandoned the subject, and gave rise to suspicions in the minds of the people, which their conduct indeed seemed but too much to justify. This conduct has compromised the dignity of the Members, both in the eyes of the people and the Government, and being one of the most extraordinary, as well as important events in the history of the House, deserves to be minutely recorded. It has been attributed, though I hope incorrectly, to interested views on the part of the Speaker of the Lower House, who, in sustaining the accusations of the Commons against the Speaker of the Legislative Council, risked the loss of a salary of £.1000 per annum, which the House had voted to him, and which the Governor agreed to sanction, provided the same sum was voted to the Speaker of the Legislative Council. This the House could not refuse, unless the Speaker of the Lower House had been determined to sacrifice his private interest, and had requested the House to be firm in their determination on a subject in which their own honour and the welfare of the country were concerned. Unfortunately the Speaker, Mr. Papineau, took an entirely different view of the subject, giving the House to understand that, after the decision of the Privy Council in England, and the approbation of this decision by the Prince Regent, it was dangerous to push matters further; that any further proceedings would cause a dissolution; and that, in the critical situation in which the House stood, with respect to the Legislative Council, it would be wise to remit the question to another session. This eventually proved to be no other than a subterfuge, by which the House escaped entirely all further discussion of the matter. It is just to remark, however, that, with this exception, the whole conduct of the Speaker, in his long political life, has been above reproach, and such as to merit the approbation and entire confidence of his countrymen—this approbation and confidence he has not only merited,

but obtained, and he still fills the important office of Speaker of the House of Assembly. That he yielded on this occasion, we, not being acquainted with his political views, must lament as one of the weaknesses of human nature. He was not alone, however, if reports are correct, in succumbing to temptation. The abandonment of the question was also partly attributed to promises made to some of the principal Members, on the part of the Governor, of certain important and lucrative places, such as judgeships, colonelships, and what not. These promises, as it happened, he could not fulfil, inasmuch as he soon after fell ill, and was obliged to leave the province abruptly. The independent and honourable conduct of one member, of *British origin*, namely, of Mr. James Stuart, a man of genius and superior talents, deserves to be mentioned. He supported till the last moment the right of the House to carry its complaints to the foot of the throne, and declared that they ought to pass a resolution, that they were determined to be heard before they would submit. This remarkable steadiness and determination on his part have been attributed to his hatred of the Chief Justice ; we hope, however (as we cannot judge of his private feelings), that far more honourable motives were acting upon him ; and it is to be regretted, for the honour of those who had promised to support him, that they should, in so critical a moment, have suddenly abandoned his cause, and thus exposed themselves to severe and disagreeable reflections, and induced their former friend and colleague to take a resolution never again to act in conjunction with them ; to which resolution he has steadfastly adhered. To me, it has always appeared highly improper to confound and mix together the private quarrel of Mr. Stuart and the Chief Justice with the public conduct of the former in the political affair of which we are now speaking ; and I must frankly avow, that the manner in which the opposite party gained their majority, after the energetic speech which Mr. Stuart pronounced on the occasion, and the irresistible arguments he adduced, has been to me, from that time to

the present, an inexplicable mystery. I myself was present at the debate, and I speak according to my own feelings at the moment, and I believe of all those who have taken the trouble to reflect carefully on the matter, when I say, that the decision of the House was as extraordinary as ill-advised, and that this same decision has contributed, ever since that epoch, materially to diminish the influence of the popular branch of the constitution with the Imperial Government.

Although the accusations against the Chief Justice were abandoned, another judge of the King's Bench was, some time after, impeached for "divers crimes and misdemeanours committed in his official capacity." This impeachment was, at the desire of the Assembly, transmitted to the Prince Regent by the Governor, and the judge was suspended from the exercise of his judicial functions. Let it be remarked that the same judge was permitted to resume his duties during the administration of the Duke of Richmond, no trial having taken place—no method having been adopted to prove the accusations of the Assembly ill founded. Returning to the order of time, which we have hitherto pursued, it may here be proper to state some further circumstances connected with this important question.

The disputes, respecting the power of the House of Assembly to lay their complaints against various officers before His Majesty without the concurrence of the Legislative Council, having been communicated to His Royal Highness the Prince Regent, his Royal Highness decided that every case of *impeachment* by the Commons should be left to the discretion of the Legislative Council, and should be judged by them. It is to be regretted that the instructions received by His Excellency Sir John Sherbrooke, upon this subject, have never been sufficient to induce the Legislative Council to act upon them; they, the Council, declaring that no sufficient explanation was given respecting the mode to be pursued, inasmuch as it was not determined whether the Council was to take the impeachments into

consideration, in virtue of a special commission named for the purpose; or whether it was to exercise this privilege as belonging to the *Upper House*, in accordance with its analogy to the House of Lords. The idea of so great a privilege as the latter course implied quickly produced a change of opinion in the Legislative Council upon the nature of impeachments, and the *rights of the Commons*, and, in spite of the opposition hitherto maintained, they now determined to support the opinion they had formerly decried. A misunderstanding now arose between the Governor and the Council, the latter declaring that the conduct of His Excellency, in not immediately coinciding with their views, was a direct attack upon the privileges of the Legislative Council. The other party, however, in the measure as decided by the Council, seeing only the establishment of an aristocracy, supported the Governor, and asserted that an Act of the Imperial Legislature was required to confer such a privilege upon the Legislative Council. The Governor, in the mean time, wrote to England for instructions as to the mode he was to pursue. Unfortunately, however, illness obliged him to leave the country before any answer could be returned, and the matter remained in the same unsettled state as before.

During the administration of the Duke of Richmond, the Legislative Council passed a resolution to the effect, that the House of Assembly possessed not the right to *impeach* without the concurrence of them, the Legislative Council. The Assembly immediately came to the following resolution:—

“ That the claims of the Legislative Council, touching the complaints brought by the Assembly, were not founded on the constitutional law, or any analogy thereto; that they tended to prevent offenders out of the reach of the ordinary tribunals of the country from being brought to justice; and to maintain, perpetuate, and encourage, an arbitrary, illegal, tyrannical, and oppressive power over the people.”

If the reader will recall to his recollection the statements we have made respecting the formation of the Executive and Legislative Councils, he will perceive the cause of the determination, on the one hand, of the Legislative Council to deem all accusations illegal in which they were permitted to bear no part; and of the determinations of the Commons, on the other, to insist upon the right of being the accusers of great offenders without need of any concurrence whatsoever. The great offenders must, almost of necessity, be either members of the Executive and Legislative Councils, or intimately allied to them. They have, among themselves, a brotherly love\*; an affection begotten by a similarity of interests. One councillor, therefore, naturally stands by and supports another; need we hope that they will expose a brother's failings, more especially when the secret whisper of conscience tells them that their brother's failings are common to themselves? The Commons wisely determined to insist upon calling these offending councillors to justice, without the assistance of their fellow offenders. Seeing the justice of this determination, it is the more to be lamented that the House ever wavered in its course—ever permitted a suspicion of interested views to lower them in the estimation of their countrymen. Succeeding parliaments have partly effaced this stain; they have strenuously re-insisted on their right; and have consequently called forth the never-failing opposition of the Legislative Council. The misunderstanding between the two branches of the Legislature has gone on increasing, in exact proportion with the increasing determination of the House of Assembly to investigate the conduct of the public officers, the Council thus showing that private pecuniary interest is the cause of their anger; that their patriotism is but a screen, under which they shelter their selfish schemes of individual aggrandizement.

Under the administration of Sir John Sherbrooke, another

\* " La force de l'amitié, dit Helvetius, est toujours proportionnée au besoin que les hommes ont les uns des autres."—*De l'Esprit*, Dis. III., chap. xiv., p. 327.

equally important question, as regarded the government of the country, was finally adjusted. The House of Assembly had offered, for many years, to defray the expenses of their own government, but their offers had, hitherto, been disdainfully rejected ; and, in truth, during the administration of Sir James Craig, in the year 1810, the offers of the House had been deemed almost high treason, and were followed by an immediate dissolution of Parliament. The reason of this apparently extraordinary feeling on the part of the Government, is, upon reflection, sufficiently obvious : so long as the Executive was responsible to the authorities in England for the public expenditure, their responsibility was a shadow ; but the moment that a body of men were on the spot, appointed to superintend the public expenses, and naturally jealous respecting the method in which their money and that of the people was used, the responsibility of those entrusted with its immediate management became real, and exceedingly distressing to men who had long indulged in unlicensed extravagance : strenuous, consequently, were the endeavours of the Executive Council to reject the dangerous advances of the Assembly ; at length, however, they were obliged to yield, and submit themselves to the pain of inspection. The Governor, Sir John Sherbrooke, accepted the offers of the House, and the civil expenditure was thus brought under the control of the country. The joy of the people can easily be conceived, when they learned, that the Governor had yielded to the wishes of their representatives, and that now an efficient check was at last established over the ulcers of the country. The people were aware, that whatever difficulties this defraying of their own expenses might entail upon them—whatever immediate troubles it might create ; yet that, in the course of time, it must necessarily enforce complete obedience from the most refractory of their servants. The price was not deemed by them too high for so valuable a privilege. The reader is left to judge, respecting the intentions of those who had so long and so strenuously opposed themselves to its salutary exercise.

Sir John Sherbrooke had hitherto, by the affability of his manners, and his upright conduct, preserved his popularity among the people; and, from the authority which his situation conferred, was enabled to maintain some influence over the Executive Council. The time, however, was fast approaching when this neutrality of the Governor could no longer exist: one party or the other would, of necessity, deem him their friend or their foe, as, day by day, new questions were arising, in which it was requisite for him to take a decided part. In this critical moment the Governor fell alarmingly ill, and was obliged, eventually, to leave the province; he thus, till the end of his administration, was in favour with both parties; no governor, before or since his time, has been equally fortunate\*.

“That he assumed the government of Lower Canada (says an author I have already quoted), when the nicest management was required to heal the divisions which recent

\* For the purpose of conveying a conception of the opinion which Sir John Sherbrooke had formed of those by whom he was daily surrounded, and whose duty it was, by their advice, to direct his conduct, I will relate an anecdote, which will serve instead of volumes. This opinion was communicated to me, in a conversation which I had the honour to hold with him at the Château St. Louis, at one of the balls given there by the Governor. After the ordinary salutations, we entered into conversation; these salutations were by no means expected, inasmuch as he only knew me indirectly; and as I was neither lieutenant-colonel, nor commissary-general, nor chief justice, nor attorney-general, nor even member of the Provincial Parliament, but one of that plain and honest class of citizens who are to be seen at public parties only, congregated in an obscure corner of the ball-room, or who may be found at one end of the supper table, endeavouring to drown their mortifications in wine, sometimes good, but oftentimes indifferent. In spite of my insignificance, however, the Governor addressed me, and asked me various questions, upon various subjects; but more particularly respecting the *Canadien*, a newspaper, of which I was incorrectly believed to be one of the proprietors. I gave such information as I thought, at that time, correct to these different questionings, when, all at once, the Governor said, à-propos of what I cannot recollect at this moment:—“Why, sir, if I believed all that is said to me, I should not believe that there is an honest man in Quebec.” This observation struck me so forcibly, that I am glad to be able to adduce it as a fact, to show to what lengths things had been pushed under his administration, and to mark how difficult it must be for an honest man to maintain a good understanding with parties in such a state of hostility.

events were on the point of producing, will be as readily admitted, as that the prudence of his measures conciliated those differences which might have involved his administration, from the beginning, in the most unpleasant altercations. Prompted by the best of principles, and superior to the local prejudices which too frequently predominate in colonial politics, he gave a free scope to the legislature of the province, and imparted to it a new and more liberal character than it had hitherto possessed. Those pretensions, which a few years before had embroiled the Executive with the Assembly, were now gratuitously yielded to the latter; and the constitution of the colony made more progress in the acquisition of solid advantages during this administration than it had previously gained since its establishment. That trifling errors may have been occasionally committed, it is but natural to suppose; but there are none which, upon a proper remonstrance, he would not readily have repaired, and which are not compensated by a multitude of virtuous actions\*."

He quitted the province, according to some, really ill; others, however, have asserted his malady to have been feigned: upon this subject we can give no opinion. He was regretted by all parties; and before his embarkation for England, which took place on the 12th of August, 1818, he received the most flattering addresses from the citizens of Quebec, Montreal, and Three Rivers, and from all the members of the Executive and Legislative Councils.

The Duke of Richmond succeeded; and it is not remarkable, considering the circumstances under which he arrived, that he was far from being so popular as his predecessor, who would, as we have already stated, have had great difficulty in maintaining, for another session, the favour of both parties. Nothing, however, very particular happened in the session of 1819, except the discussion respecting the appropriation of the public money to the expenses of the civil government. The Executive required that the money for

\* *CHAMBERLAIN'S Memoirs*, p. 181.

this purpose should be voted *en bloc*, that is, in one sum; and that the division of that sum, among the various officers of the government, should be left entirely at its own (i. e. the Executive's) disposal. The House objected to this method, and claimed the right of voting the sums required by *items*, that is, giving, according to the discretion of the House, the remuneration which each individual officer was to receive. Although this may not be done in England to the same extent to which they were desirous of proceeding, still (they said) the difference existing between their situation with respect to the Government, and that of the House of Commons with respect to the Ministers, rendered such a deviation from the English practice absolutely necessary. The ministers in England were responsible to the House of Commons; the persons entrusted with the management of the Canadian Government were, in reality, responsible to no one, and not even in name responsible to the House of Assembly; the only means, therefore, in the power of the House, of controlling these irresponsible officers, was, to preserve an immediate control over their salaries. They, consequently, decided upon voting the public money by items. This conduct was judged unconstitutional by the Legislative Council, and a most liberal Bill, passed in the Lower House, was thrown out in the Upper; the pretext being, that the Assembly was endeavouring, by this proceeding, to infringe upon the prerogatives of the crown. No great acumen is required fully to appreciate their lively interest in the Royal prerogatives.

The Governor was now obliged to pay the civil officers of Government, without assistance from the Assembly; and thus began the troubles, respecting the public expenditure, which have existed unto the present moment. The House of Assembly has stoutly adhered to its first determination; the Legislative Council, goaded on by private interest, has hitherto as stoutly resisted the attempts of the Assembly to attain an efficient control over the appropriation of the public money. The speech of the Governor, at the prorogation of the Parliament, was not of a description to reconcile

the contending parties : the high idea that had been formed respecting the Duke of Richmond ; the experience that he was supposed to have acquired in his government of Ireland, would certainly have led one to expect a very different production at his hands. The evil effects of the measure were quickly seen : the favourable disposition of the House towards the Governor was at once destroyed, and jealousy and suspicion took possession of the minds of the popular party. I insert the speech, for the purpose of allowing the reader to judge for himself.

“ I came to this province to take the government of His Majesty’s dominions in North America, with a sincere desire of carrying into practice the intentions and liberal views of His Royal Highness the Prince Regent ; to promote, by every practical measure, their general prosperity ; to improve their natural resources, and the individual happiness of His Majesty’s people.

“ A reasonable hope and expectation was entertained by me, in accepting this command, that I should meet, in those pursuits, with the cheerful support of every well-informed person, who could appreciate in his own mind my motives in undertaking the charge.

“ With these impressions on my mind, and with full confidence in your zeal, your loyalty, and your local knowledge of the public and private interests of the country, I met you in your legislative duties, and have most patiently attended to your proceedings during a long session, which I am now to close by prorogation. *You, Gentlemen of the Legislative Council*, have not disappointed my hopes ; and I beg to return you my thanks for the zeal and alacrity you have shown in all that more immediately belongs to your body.

“ It is with much concern I feel myself compelled to say, that I cannot express to *you, Gentlemen of the Assembly*, the same satisfaction, nor my approbation at the general result of your labours, *at the expense of so much valuable time*, and of the public principles upon which they rest, as recorded in your journals.

" You proceeded, upon the documents which I laid before you, to vote a part of the sum required for the expenses of the year 1819; but the Bill of Appropriation which you passed was founded on such principles, that it appears from the journals of the Upper House to have been *most constitutionally* rejected. His Majesty's Government has been thus left without the necessary supplies for supporting the civil administration of the province for the ensuing year, notwithstanding the voluntary pledge given to His Majesty by the resolve of the House of the 13th of February, 1810."

In another part of the same address he says:—

" I recommend particularly to your attention, as individuals, the value of your constitution of government, which affords the most complete and ample protection and freedom of person and property that can possibly be desired, and is superior to every system of government enjoyed by any colony that has heretofore existed, your sister colony of Upper Canada excepted; and, as branches of the Legislature, it is of the first importance that you should fully understand your constitutional rights\*."

Considered in its true point of view, the House of Assembly had every right to be discontented with this address, inasmuch as the House had taken what they deemed *constitutional* means for providing liberally for the public expenditure. It must be recollected that the two branches of the Legislature, known by the names of Legislative Council and

\* This precisely was what the more instructed members of the Provincial Parliament had for many years been attempting; and it is to this strong desire to understand their constitutional rights that we owe their honest and determined opposition to the pretensions of the Legislative Council. They deem, from the evidence which their studies have afforded them, that those pretensions are unconstitutional; and that, certainly, they are prejudicial. The courage and perseverance which this small number of well-intentioned and instructed men have manifested, in their struggle against every thing powerful in the shape of opinion in the province, deserves rather the unmingled admiration of the Imperial Government, than scorn or displeasure; and the persons who represent the English Government ought to judge for themselves, and not be hoodwinked by the interested partisans of a petty local despotism.

House of Assembly are theoretically *equals*; the opinion of one body is equal in worth to the opinion of the other, in matters in which they have equal concern; but, in others, there is a very different weight given to their authority. The matter peculiar to the Lower House is invariably allowed to be, *the granting of money*; and assuredly, if the opinion of the Lower House be of weight in any matter, it is in this. But in this it had declared its opinion, which opinion the Legislative Council deemed unconstitutional. If we consider the point equally concerning both branches, the declaration of the Lower House was equal in worth to the declaration of the Upper; if we consider the point peculiarly within the province of the Lower House, the declaration of that House ought to have had greater weight with the Executive than that of the Council. Why then, let me ask, did the Duke of Richmond believe, merely upon the *dictum* of the Council, that the conduct of the Lower House had been unconstitutional? If we look to the point in a practical light, let us ask who were most qualified, in point of intelligence, to give an opinion. Here I boldly appeal to any candid man respecting the matter. The leaders of the Commons are well known to be the most intelligent men in the country; and, when compared with the members of the Legislative Council, although men of great information are there to be found, no one, for an instant, can doubt of the superiority of the popular leaders. If, again, we look to the *interests* of both parties, who will hesitate a moment in determining on which a sinister influence was acting? In what view should we look upon a servant in private life, who aimed at placing his wages at his own disposal, and freeing himself entirely from the control of his master? The servant who did this, we should call a knave; the master who permitted it, a fool.

The Duke, as we have already stated, lost, by this imprudent act, the whole of his former popularity, in spite of his hospitable conduct and high rank; which rank had previously induced the people to believe, that he would be

above, and would despise, all petty local intrigues. They now believed him to be the defender of arbitrary power—one who would, either through inclination or ignorance, favour the evil designs of interested counsellors. The Duke, however, might eventually have changed his opinions and his conduct, had he not, by an unexpected accident, been suddenly hurried to the grave. He died in consequence of an attack of hydrophobia, produced by the bite of a fox, with which he had been playing on board one of the steam boats. The province was grieved at his unhappy and painful end, but lamented not the loss of his services.

From the death of the Duke of Richmond to the arrival of Lord Dalhousie, in June 1820, little happened that was interesting, or that had a tendency to heal existing differences; on the contrary, the conduct of the Executive served rather to augment the evil. Mr. Justice Monk, being the oldest member of the Council, at the death of the Duke of Richmond, assumed the chief place in the Government, and immediately determined, without giving any reason for his conduct, and probably not having any, to dissolve the Parliament; Sir Peregrine Maitland did the same upon the death of our venerable King, George III., which happened opportunely enough for the purposes of the Executive: the House having closed its doors to every communication, declared itself incomplete, and consequently incompetent, inasmuch as no Member had been returned for the district of Gaspé; the following resolution passed the House:—

“That the representation of the province being incomplete, no Member as yet having been returned for Gaspé, the House was incompetent, and could not proceed to the dispatch of business.”

And thus Lord Dalhousie, on his arrival in the country, found the minds of the people in a state of high excitation, and little prepared to agree with the plan that he proposed, upon meeting the Parliament, of making a permanent appropriation of money for the expenses of the civil Government.

The Legislative Council, however, passed the following resolution:—"That the Legislative Council will not proceed upon any Bill of Appropriation for the civil list which shall contain specifications therein by chapters or items; nor unless the same shall be granted during the life of His Majesty the King."

Upon the refusal of a permanent appropriation by the House, the Governor had given them to understand that he would accept the required sums annually, passed by chapters\*, in place of items, as had been proposed. The resolution just mentioned, however, passed by the Council, put an end to all hopes of this amicable mode of adjustment.

It was now perfectly evident that the end in view was to obtain money without being subject to the control of the Commons. The Governor, not having succeeded, during the session of 1822, in obtaining a grant during the King's life, bethought himself of a new and ingenious expedient to answer the same end. He said, that he had hitherto advanced the sums of money required to carry on the government, on his own responsibility, from the military chest; but that he could continue to do so no longer; he therefore requested the House to advance about £.85,000 "for local establishments and objects of public charge, which form no part of His Majesty's civil government, and are not connected with the administration of justice." Ordinarily, requests for money, to be applied to local purposes, had been accompanied by specific details and descriptions, respecting the end in view; but, accompanying this extraordinary demand of the Governor, there was no explanation whatsoever. The House therefore suspecting (and with reason) that this sum of money was to be applied to other than the alleged purposes, refused to accede to the Governor's request. All these tortuous methods of proceeding tended not to create a good understanding

\* By chapters, was meant *classes* of Expenditure, *e. g.* Administration of Justice, Collection of the Revenue, &c., &c.

between the Governor and the House; and the suspicions of the latter were materially increased by the open and undisguised conduct of the Executive Council, who soon gave the people to understand, that they possessed the entire confidence of His Excellency, and led him according to their own desires: of this fact convincing evidence was soon afforded.

In His Excellency's first address to the House, in the year 1820, he stated, "that it should be his constant study to administer the government according to the laws."

He now declared to the Parliament, that he intended to use every means he was able, and all the powers His Majesty had confided to him, to establish the well-being of His Majesty's subjects\*; insinuating thereby, that he intended to dispense, as much as possible, with all co-operation from the House. He reproached the Assembly "with having withheld the necessary supplies;" accused them of evil intentions; and complimented the Legislative Council "on their maintaining the true principles of the constitution."

The disputes which had arisen between Upper and Lower Canada, respecting the divisions of the revenue proceeding from the Customs, came, happily for the Governor, in support of the representations he transmitted to Ministers in England respecting the affairs of the province. The confusion existing was represented to be so great, and, by ordinary methods, so completely irremediable, that nothing less than a change in the constitution was deemed sufficient to check the increasing evil; and, consequently, a Bill was at this time (*viz.* the 20th of June, 1822) introduced into the House of Commons in England, for the purpose of uniting, under one Legislature, the provinces of Upper and Lower

\* It is difficult to discover what was the precise meaning of these terms, as used by His Excellency; if, to express unbounded contempt for a people, to endeavour to degrade and oppress them, be to provide for their well-being, His Excellency was marvellously successful.

Canada\*. Of this Bill no notice had been given to the people of the province; their opinions were therefore, we suppose, considered as of no importance in a matter, nevertheless, intimately connected with their own welfare.

In the month of July following, positive information on the matter was received in Canada; and, by the fortunate opposition of Sir James Mackintosh, Mr. Labouchere, and Mr. Hume, time was given to the people to inform the Imperial Parliament of their exceeding repugnance to the measure. Sir James Mackintosh and Mr. Hume took occasion to express their decided opposition to passing an Act of so much importance to the colony, without information as to the opinions of the people at large respecting it, and they happily succeeded in persuading the Ministry to defer the passing of the Bill till the next session of Parliament. The whole colony almost, *en masse*, petitioned against the measure; and the Bill was eventually abandoned.

No measure has yet been contemplated which has created the same degree of interest among the Canadian people, as was produced by that of the intended union of the two provinces, under one Administration and one Parliament. For the first time were seen in the province, public meetings of the people in every part of the country, as practised in England upon matters interesting the various portions of the population. In Upper Canada the same meetings took place; and the result was, that an immense majority in both provinces, but more particularly in Lower Canada, declared against the proposed union. It was by them represented to His Majesty, that the project was diametrically opposed to the wishes of his subjects, the interests of the country, and to the maintenance of the good understanding which had hitherto existed between the inhabitants of the two provinces, which last representation, doubtless, appeared

\* This measure was supported here by Mr. Ellice, acting for the Unionists in Canada, and Mr. Wilmot Horton, who introduced the Bill.

extraordinary, seeing that the projected union was founded upon the complaints which Upper Canada had made respecting the division of the revenue.

It is probable, that the persons who were desirous of carrying this project of the union into effect would have succeeded, had not the Attorney-General of Upper Canada, and the person whom that province had deputed to support their complaints respecting the revenue, believed it their duty to explain openly to the Ministers the real consequences of this impolitic measure. These gentlemen well knew that the complaints of Upper Canada, respecting the particular object of a part of their revenue, was not the real reason for the proposed union; they knew, and so did every man in Canada, that the object of those who gave birth to the project was, to destroy the political influence of the French Canadians; to overturn their laws, their religion, and their language; and to make the people quickly forget, by a lapse of years, that they ever had been French Canadians. If any one will take the trouble to inspect, and reflect upon the different clauses of the Bill of Union\*, these observations will be found perfectly correct; and it will also be seen that it was impossible for a people, attached to their various usages, laws, language, and religion, to contemplate with indifference or patience so vital a change. When this project was first communicated to me, I was, upon the whole, rather its advocate, and I remember having signed an address in accordance with that opinion; but the moment we heard the warm partisans of a union far different from that originally proposed, and which I had favoured, cry loudly and steadily, that it was requisite to strike at the root; that English interests (meaning, not the interests of England, but certain persons in the colony who usually speak English) must be made dominant; that there was but one way of destroying the power of the French Canadians, which was, for the English party to return an equal proportion of representa-

\* See Appendix, No. IX.

tives to the Assembly; to augment the qualifications of a member; to make the representatives come to a great distance from their homes, and thus neglect their private affairs; so that the rich only could possibly afford to be representatives: when I heard these assertions, and others equally just, I repented of my former opinion, and opposed the union with the same openness that I had formerly supported it: and I did this, not on account of hatred or jealousy of England, but from a sincere desire to forward the interests of my country, which interests are not incompatible with those of the mother country, but which, unfortunately, are too often stated to be so; and thus that hatred of every thing English, which, in words, is deprecated by the self-styled English party, is, in fact, generated solely by their selfish and ill-advised proceedings.

It is constantly objected to the Canadians, as a crime, that they are attached to every thing which is French; that they have preserved, under an English government, all their ancient prejudices, their customs, and their language; that in fact they are, at the present moment, as much a French people as at the time of the conquest. This, say some idle talkers, is unpardonable, after the protection and encouragement which England has afforded you. We suppose it will be universally allowed, that the object of England, in affording this protection and encouragement, was to increase the happiness of the Canadian people; we suppose, also, that no one will deny, that a people is always unhappy when *forced* to leave one set of manners and to follow another\*; that the only mode compatible with the happiness of the people, is to instruct them in the benefits of one class of manners and the evils of another; to show that virtue, and general and individual welfare and ease, are forwarded by one, and retarded and destroyed by the other. It will also

\* "C'est la folie des conquérans de vouloir donner à tous les peuples leurs lois et leurs coutumes: cela n'est bon à rien; car, dans toute sorte de gouvernement, on est capable d'obéir."—MONTESQUIEU, *Grandeur et Décadence des Romains*, cap. vi., p. 83.

be allowed, we believe, that any body of teachers, or advocates of a certain class of manners and usages, if they wish to obtain an influence over those to be taught, must, in their own proper persons, place before their pupils an example of the virtues which they pretend to teach. These things being allowed, we ask why the Canadian people should be blamed for adhering to old feelings and old opinions, when no pains have been taken to teach them better? When the persons professing to be conversant with a higher degree of cultivation, and a higher standard of morality, are coarse and haughty in their behaviour, unscrupulous and grovelling in their plans of individual aggrandizement? When, in place of mild persuaders of the truth, they are but loud and infatuated partisans of early habits, who, instead of weighing an observance by its intrinsic worth, try it only by its resemblance to their own observances; who themselves being incapable of self-governance, yet set themselves up as the teachers of others? Surely we are not to be blamed for not following the blind—for not endeavouring to imitate those whom we should blush to resemble.

One word as to the feelings of the Canadian people respecting Government. Under the French dominion, they were political ciphers; the officers of the King ruled, the people obeyed. When England took possession of the country, a new set of feelings was introduced. In England, it was said, the great body of the people are represented; they pay the expenses of their own government, determining *what* shall be disbursed, and *how* it shall be disbursed. By the control over the public purse, the people have possessed themselves of the real government of their country\*—have beaten down the old feudal tyranny, and erected a liberal government in its stead. The Canadian people listened to these discourses, and sighed after a similar power; that power was given: a constitution like that of England

\* This is the language of every English constitutional writer. See Blackstone, Hume, Hallam, &c.

was conferred on them, and in a few years (so thoroughly had English feelings been engrafted upon their former habits) the people claimed, and have at length obtained, a complete control over the public purse. Here we see a wise method of teaching—here we see its beneficial effects. English feelings are not here scouted: we are all English on this point. The truth, however, is, that we have been taught by English books, and not by the representatives of England, sent to us in the shape of rulers. If we were to judge of the satisfaction likely to be felt by those who now style themselves English, *par excellence*, in our future progress towards English habits, by that which they feel by our complete change in this one particular, we should be apt to believe that no sincere desire exists of creating any alteration. Our English proceedings on the subject of money have given no pleasure to these gentlemen: and if we must state our honest opinion, we will frankly own, that we believe they had rather that our English tendencies had been effectually checked; and that, with all their affected hatred to French feelings, they sincerely desire that we should possess all the yielding pliability which formerly characterized the subjects of the *grand monarque*.

We return, however, to our history, from which the subject of the Union has induced us somewhat to depart.

His Excellency the Governor-in-Chief, being supported by the Treasury in England, continued to defray the expenses of the civil government, upon his own authority, without the concurrence of the Assembly.

“ During the whole of the difficulties, since 1819, up to the 1st of November, 1823, inclusive, the entire expenses of the civil administration of the government were paid under the authority of the Governor's warrants, with the concurrence of the Executive Council, with very little (if any) regard to the votes of the Assembly; generally, according to the estimates sent down (excepting, perhaps, that of 1819), and, in some instances, with the addition of new salaries and increased expenses. Notwithstanding the Go-

vernor's express declaration, in his message of the 6th of February, 1823, and his speech from the throne: at the close of that session, new salaries and expenses are stated to have been allowed and paid, while appropriations, expressly made by an Act of the Provincial Parliament, remained unpaid. Since the half-year due on the 1st of May last, the gentlemen who hold commissions under the crown in this province, but 'form no part of His Majesty's civil government, or of the administration of justice therein,' as well as other necessary expenses of His Majesty's civil government in the colony, have remained unpaid; while the money appropriated by law generally, for the support of the civil government and the administration of justice, has been divided among such of the public officers as the Governor and Council have thought fit, in payment of their entire salaries: the Governor and Council, and their connexions, partaking of a large proportion of the whole amount; the Lieutenant-Governor exclusive, which was granted by Act of the Legislature in 1823, during his residence in the province\*."

But affairs could not remain in this situation; and, in 1824, the Governor communicated officially to the House, the fact (of which he had long been cognizant); that there was no more money in the coffers of the Receiver-General; and that this officer was a defaulter, in the sum of £.100,000 sterling†; and, for the first time since the establishment of

\* *Financial Difficulties, &c.*, p. 15.

† "According to the Report of the Committee, to whom were referred the public accounts for the year 1827, on the message of the present Governor, Sir James Kempt, the 24th of December, 1828, the defalcation of the Receiver-General was known to the Governor, Lord Dalhousie, in the year 1823, in March or April, to be £.96,117. 12s. 0½d. sterling, equal to one year's net revenue of the province. Nothing was paid by Mr. Caldwell, the Receiver-General, save £.4000, while revenues of estates to the amount of £.10,000 were left in his possession; the Lords of the Treasury not admitting that the province had a right to require of the British Government compensation. This was by message, dated Treasury Chambers, October 30, 1826. By that refusal, the committee was of opinion, that this, and all public Acts, should be left to the legislative authority of the colony; that the House should have nothing more to do with the Treasury, but should make an appeal to the Imperial Parliament, for the said recovery."—*Quebec Gazette*.

the constitution, the Receiver-General was compelled to lay his accounts before the Assembly.

"It is understood\*, that Sir J. Sherbrooke, shortly after his assuming the government of the province, represented to His Majesty's principal Secretary of State for the Colonies, that the provincial accounts were in an unsatisfactory state. The Governors of Canada have always been particularly charged, by their commissions and instructions, to watch over the receipts and expenditure of the province, and transmit regular accounts thereof. The practice had been, to have the accounts examined, checked, and reported on, by the Executive Council; they were then sent home, for the final audit at the Treasury. So long as only the monies received under Imperial Acts, and from the military chest, were to be accounted for, the business was simple; but when money came in also from duties under Colonial Acts, and payments were made under the authority of colonial laws, it became more complicated. A scale of civil expenditure was formerly established by the Treasury, but it was increased in the colony, sometimes upon the authority of letters from the Colonial Department; sometimes by colonial Acts; sometimes without colonial Acts: so that the auditors of the Treasury could hardly know how to check the accounts transmitted by the Governors, as reported on by the Executive Council."

"The Receiver-General kept only one account with the Treasury, *viz.* of receipts and of expenditures, under the Governor's warrants; this he transmitted through the Governor and Council, with copies of the warrants; but it must have been difficult to judge of the legality of the payments; the 31st of George III., cap. 31, section 47, positively enjoining that certain monies should be applied for the public uses of the colony, in such manner *only* as directed by the colonial Legislature. As deficiencies of revenue were long made up from the military chest, the Colonial Assembly appears to have been remiss in the exercise of its duty of closely attending to the revenue and expenditure. The last

\* *Sketch of Business, &c.*, p. 26.

*quietus* given by the Treasury, to the late Receiver-General, is to the 10th of October, 1814; when, it is to be supposed, that the accounts of the receipts and expenditure were finally audited. Lord Bathurst, in answer to Sir John C. Sherbrooke's representation, signified His Majesty's commands, that the expenditure should be voted by the Assembly, and the accounts settled *annually*. But, as the objections taken in the Legislative Council (first to the *mode* of appropriation, and afterwards, to the *duration* of the grant) were followed by the rejection of the Bills sent up by the Assembly, excepting those of 1823 and 1825, the accounts, subsequently to the year 1818, still remain in an unsettled state. How the Receiver-General can be *legally* quieted at the Treasury, in such a state of things, seems to be a matter of difficulty. Several attempts to facilitate the settlement of accounts of advances made under executive authority, and for a general settlement of the past accounts, have been made: a Bill for the first purpose was passed by the Assembly in 1824, but failed in the Council; at the last and previous session, the appointment of commissioners for stating the public accounts was proposed, and failed in the Assembly. Bills of indemnity passed the Assembly in 1823, for the years 1819, 1820, 1821, and 1822; but they failed in the Council. The mode pointed out by Lord Bathurst, would certainly keep the accounts of the revenue and expenditure in a state satisfactory to all concerned in the colony, and render the business, at the final audit of these accounts, and *quietus* of the Receiver-General at the Treasury, as their officer, and according to law, a matter of ease and certainty.

“ The defalcation of the late Receiver-General was a consequence always to be apprehended, when public accountants are not brought to regular and strict settlement at short periods, under the check of those who furnish the money. In the accounts transmitted to the Assembly last year (1823), by the Executive, the whole of this defalcation (£96,117. 13s. 0½d. sterling) stands against the part of the revenue allowed to be at the disposal of the Legislature. It is well

known, however, that the late Receiver-General did not keep separate chests or accounts of his receipts and expenditures. The defalcation, of course, was on the whole of his receipts. As the province had no hand in the appointment of the Receiver-General, and, in fact, was prevented from exercising any control over him, it addressed His Majesty, to the end that the Imperial Government should make good the amount deficient. If the colonists were to lose this amount, by an officer over whom they had no control, it ought not, at least, to fall on any particular portion of the receipts; it ought to be borne equally by the whole, Upper Canada as well as Lower Canada. If the latter were to bear the whole of it, it would, indeed, be in a singular situation. The Treasury would appoint such person as it thought proper, to receive and pay over the revenue in Lower Canada; he would also perform the business of Upper Canada; and Lower Canada, besides paying and advancing the money, would run all the risk, and bear all the losses which might occur; even any deficiency of money put into his hands from the military chest."

At the last session the Assembly addressed the Lieutenant-Governor, to know if any answer had been received to its address to His Majesty on this subject; when it was informed, that orders had been received, "to proceed at law against the late Receiver-General."

We may terminate this subject by observing that, for many years, more than the half of the public revenues have been employed by the different Governors, and more particularly by Lord Dalhousie, without the consent of the Legislature; that the salaries of different civil officers have been augmented, in spite of an extraordinary diminution in the profits of commerce; and that the danger which was apprehended, of being called upon to support the extravagancies of the Government, accompanied by anger, resulting from a multitude of petty vexations, and mal-administration, were the sole causes of the people rising up, *en masse*, against the proceedings of the Executive. Petitions and addresses have

been forwarded from all parts of the colony, manifesting the utmost respect and loyalty towards the King; but, at the same time, complaining bitterly of the conduct of his representative, and praying for a change *in toto*, in the whole proceedings in the government of the colony. These addresses were accompanied by a deputation of three Members of the Provincial Parliament, who were fortunately heard before a special committee of the House of Commons appointed to inquire into the state of Canada. The determination of the committee was in accordance with the wishes of the people, and the orders transmitted to Sir James Kempt, the present Governor, and his conduct during the last session of the Provincial Parliament, augur favourably as to the future.

We will close our account of the administration of Lord Dalhousie, by inserting the petitions presented to the King, on the subject of his government: the reader will thus learn the general feeling of the people.



#### LOWER CANADA PETITIONS.

*“Petition of the Counties in the District of Quebec, and of  
the County of Warwick, District of Montreal:*

“TO THE KING’S MOST EXCELLENT MAJESTY.

*“May it please your Majesty,—*We, your Majesty’s faithful and loyal subjects, inhabitants of your province of Lower Canada, most humbly supplicate your Majesty to receive graciously this our humble Petition, which we now lay at the foot of your Imperial Throne, with hearts full of gratitude and inviolable attachment to your august person and your Majesty’s paternal Government.

*“Amongst the numerous benefits for which the inhabitants of Lower Canada are indebted to your Majesty’s Government, there is none that they more highly prize than the invaluable constitution granted to this province by the Act of the Parliament of Great Britain, passed in the thirty-*

first year of the reign of our beloved Sovereign, your august father, of ever-revered memory.

“ Called by that Act to the full enjoyment of British constitutional liberty, and become the depositaries of our own rights, under the protection of the mother country, we contracted the solemn obligation of preserving inviolate this sacred deposit, and of transmitting it to our descendants, such as it was confided to us, by the great men who then presided over the destinies of your powerful and glorious empire.

“ Deeply impressed with a sense of this obligation, alarmed by the abuses which have crept into the administration of the government of this province, and suffering under the evils which weigh on its inhabitants, we entertained an anxious hope that the House of Assembly, in the session of the Provincial Parliament, called for the dispatch of business on the 20th of November last, would take into consideration the state of the province, and adopt efficacious measures to obtain the remedy and removal of these abuses and evils. We had a sure reliance on the well-tried loyalty and disinterested zeal of our representatives; but we have had the mortification of seeing our hopes frustrated by the refusal, on the part of His Excellency the Governor-in-Chief, to approve the Speaker elected by the Assembly, and by the proclamation of the 22nd of the same month of November, proroguing the Provincial Parliament. In these circumstances, deprived of the services of our representatives, suffering under great evils, and threatened with others still greater, we humbly implore the protection of your Majesty, the source of all grace and of all justice.

“ The enlightened and patriotic statesmen who devised our Constitutional Act, and the British Parliament by which it was granted, intended to bestow on us a mixed government, modelled on the constitution of the parent state; the opinions publicly expressed at the time in Parliament, and the Act itself, record the beneficent views of the Imperial Legislature; a Governor, a Legislative Council, and an

Assembly, were to form three distinct and independent branches, representing the King, the Lords, and the Commons; but the true spirit of that fundamental law has not been observed in the composition of the Legislative Council; for the majority of its members, consisting of persons whose principal resources for the support of themselves and their families are the salaries, emoluments, and fees derived from offices which they hold during pleasure, they are interested in maintaining and increasing the salaries, emoluments, and fees of public officers paid by the people, and also in supporting divers abuses favourable to persons holding offices. The Legislative Council, by these means, is, in effect, the Executive Power, under a different name, and the Provincial Legislature is, in truth, reduced to two branches, a Governor and an Assembly; leaving the province without the benefit of the intermediate branch, as intended by the aforesaid Act, and from this first and capital abuse have resulted, and still continue to result, a multitude of abuses, and the impossibility of procuring a remedy.

“ We acknowledge that the Legislative Council ought to be independent; and, if it were, we should not be entitled to complain to your Majesty of the repeated refusals of that branch to proceed upon various Bills sent up by the Assembly, howsoever useful and even indispensable they might be; but considering these refusals as the natural result of the composition of that body, and of the state of dependence in which the majority of its members are placed, we are compelled to consider its Acts as the Acts of the Executive Government; and we most humbly represent to your Majesty, that the Legislative Council of this province, the majority of which is composed of executive councillors, judges, and other persons dependent on the Executive, have, year after year, rejected several Bills, refused and neglected to proceed on several other Bills sent up by the Assembly, for the remedy of abuses, for encouraging education, promoting the general convenience of the subject, the improvement of the country, for increasing the

security of persons and property, and furthering the common welfare and prosperity of the province: particularly—

- “ Various annual Bills, granting the necessary sums for all the expenses of the Civil Government of the province, but regulating and setting limits to the expenditure ;
- “ For affording a legal recourse to the subject having claims against the Provincial Government ;
- “ For regulating certain fees and offices ;
- “ For enabling the inhabitants of the towns to have a voice in the management of their local concerns, and a check on the expenditure of monies levied upon them by assessment.
- “ For facilitating the administration of justice throughout the province, for qualifying and regulating the formation of juries, and introducing jury trials in the country parts, and diminishing the expenses occasioned by the distance of suitors from the present seats of justice ;
- “ For providing a new and sufficient gaol for the district of Montreal ;
- “ For qualifying persons to serve in the office of justice of the peace ;
- “ For continuing the Acts regulating the militia of the province ;
- “ For increasing and apportioning the representation in the House of Assembly equally among the qualified electors throughout the province, particularly in the new settlements and townships ;
- “ For the security of the public monies in the hands of His Majesty's Receiver-General in this province ;
- “ For the independence of the judges, by securing to them their present salaries, upon their being commissioned during good behaviour, and for providing a tribunal for the trial of impeachments by the Assembly, so as to ensure a just responsibility in high public officers within the province ;

“ For appointing and providing for an authorised Agent for the province, to reside in England, and attend to its interests there ;

“ It is with the most profound grief that we find ourselves compelled to represent to your Majesty, that, during several years past, the incomes derived from real estate in this province, the profits of trade and industry, and the wages of labour therein, have greatly diminished, and still continue to diminish ; that, under these circumstances, it would not be equitable to impose taxes or new duties on its inhabitants for the public uses ; and that there exists no other resource which can reasonably be depended upon, to aid in the diffusion of knowledge, and facilitate the exertions of individual industry, than the proceeds of the existing revenues levied within the province.

“ Nevertheless, more than one-half of the gross amount of all its public revenues has been applied, for several years past, in payment of salaries, emoluments, and expenses of the officers of the civil government, exclusive of the usual and indispensable special appropriations ; and our anxiety is the greater, as these salaries, and emoluments, and expenses have been greatly increased, without the consent of the Legislature ; and have, in some instances, been paid to persons who do not reside in the province, or have rendered no service therefore ; and in other cases the said salaries, and emoluments, and expenses are excessive, when compared with the incomes derived from real estate in this province, and the usual recompense obtained therein by individuals of talent, character, and industry, equal to those possessed by the persons to whom the said salaries and emoluments are paid out of the public revenue of this province ; and, lastly, in addition to those unnecessary and excessive salaries and expenses, your Majesty's subjects of this province are also burdened with various and increasing fees paid to the officers of the civil government, which are grievous to the subject, diminishing the protection of the laws, the benefits of government, and the resources of the country for its necessary wants.

“ We are convinced that, besides the most perfect security of person and property, one of the most efficacious means of promoting the public prosperity, and preventing its decline, is to aid in the diffusion of useful knowledge, and the free exercise of individual industry and enterprise ; and we have witnessed, with satisfaction and gratitude, that our Provincial Legislature has appropriated very large sums of money for these objects, since the close of the last war with the United States of America ; but we have to perform the painful duty, of humbly representing to your Majesty, that the monies thus appropriated and applied, under the direction of the Provincial Executive, have not produced the beneficial results that were to be expected from a legal and judicious application of them, and have been tardily or insufficiently accounted for.

“ It is with the utmost pain that we are compelled to represent to your Majesty, that in this province of the British Empire, large sums of public money of the revenue levied within this province have been applied, year after year, by warrant of the Executive Government, without any appropriation by the Legislature of the province (at a time when the necessary appropriations were rejected in the said Legislative Council) in payment of alleged expenses of the civil government, and other expenses for which no services were rendered to the province, or for new and increased salaries and allowances never recognised by the Legislature. Were we to refrain from complaining of such an enormous abuse, we should co-operate in consolidating our slavery, and we humbly implore your Majesty's justice.

“ Alike negligent in the preservation of the public monies and prodigal in their expenditure, the Executive Government of this province has not only suffered the dissipation of large sums of money in the hands of the Receiver-General, and other depositaries thereof, then and still under its superintendence and control, but has appointed other officers in the stead of these faulty depositaries, without taking any sufficient security for the future ; and having advanced, to

different persons, large sums of money appropriated by the Legislature, the neglect of the Executive Government, in this respect, has been such, that several of those persons have not accounted at the time when they ought to have accounted; some have insufficiently accounted, or not rendered any account; and, notwithstanding their negligence and default, some of these persons have been appointed by the Executive Government to offices of trust, honour, and profit; and we most humbly represent to your Majesty, that the Executive Government of the province, by its negligent conduct in these respects, has exposed your Majesty's subjects in this province to heavy and grievous losses, dissipated and endangered the resources of the province, and subjected its inhabitants to unnecessary burdens.

“ Your Majesty's faithful subjects, in this province, have already forwarded humble representations to your Majesty's Government, on the subject of the college and estates heretofore in the possession of the late Order of Jesuits in this province; and while we deplore the unfavourable result of our past endeavours, we, nevertheless, continue to entertain the most perfect confidence, that, so soon as the truth shall be fully known to your Majesty, justice will be rendered unto us; and we humbly represent that, as the said Order was never the proprietor of the said college and estates, but merely the depositary thereof, for the education of the youth of Canada, the extinction of that Order could not confer on the Sovereign any other rights on that property than were possessed by the said Order; and that your Majesty succeeded to the possession of those estates, subject to their being applied to the education of the youth of this province, conformably to their primitive destination; and it is with the most profound grief that we find ourselves still deprived of the benefits which were formerly derived from the actual application of that property to these objects under the direction of the Jesuits, while education is languishing amongst us for want of those resources.

“ The settlement of the waste lands in this province, the

importance of which has already, at various times, occupied the attention of your Majesty's Imperial Government, has been neglected in the most unaccountable manner by the Executive Government of the province, so that large portions of the said lands, granted or reserved by the crown, have been long held, and continue to be held in the midst of, or in the immediate vicinity of actual settlements, without the owners or possessors thereof having been compelled to perform the duty of settlement upon which said lands were granted by the Crown, or any other duty in relation to the said lands, to the grievous burden of the actual inhabitants, the discouragement of new settlers, and the obstruction of the general increase and prosperity of the province.

“ But of all the abuses of which the inhabitants of this province have to complain, the most afflicting to your petitioners is; that, during the prevalence of the afore-mentioned and various other abuses and grievances, false representations and repeated attempts have been made by divers officers of the Provincial Executive, possessing the confidence of your Majesty's Government, to obtain from your Majesty's Government in England and the Parliament of the United Kingdom, various alterations in the constitution of the government of this province as established by law, without the knowledge of your Majesty's faithful subjects in this province, in contempt of their most sacred rights and dearest interests; and this at a time when a majority of executive councillors, judges, and other officers in the Legislative Council, prevented the inhabitants of the province from having an authorised agent in England to watch over and support their interests, and enable them to be heard by the government of the mother country; and it is under these circumstances that the Act of the Parliament of the United Kingdom, 4th Geo. IV., cap. 6, reviving or continuing certain temporary Acts of the Provincial Legislature, levying duties within this province, and the Acts affecting the tenure of lands therein, were passed, without the knowledge of its inhabitants, to the subversion of their rights and dearest

interests, and particularly without the knowledge or consent of the proprietors more immediately interested in the last-mentioned Acts. It is with the most afflicting sensations that we have witnessed the intrigues which have been in operation to despoil your Majesty's faithful subjects in this province of the rights and benefits which were granted and guaranteed to us by the supreme authority of a powerful and generous nation, under the auspices of its most illustrious citizens.

" We most humbly implore your Majesty to take this our petition into your most gracious consideration, to exercise your royal prerogative, so that your Majesty's faithful subjects in this province be relieved from the aforesaid abuses and grievances, and justice be done in the premises, that your petitioners may be maintained and secured in the full enjoyment of the constitution of government, as established by the Act passed in the thirty-first year of the reign of our late Sovereign, your royal father, without any alteration thereof whatsoever.

" And your petitioners, as in duty bound, will ever pray.

" *December, 1827.*

" [N.B.—The petitions to the Lords and Commons are the same as the above, with only the necessary change of style.]"

*" Recapitulation of Signatures to the above Petition :—*

|                                      |               |
|--------------------------------------|---------------|
| " County of Cornwallis - - - - -     | 3,583         |
| — Devon - - - - -                    | 2,139         |
| — Hertford - - - - -                 | 2,394         |
| — Dorchester - - - - -               | 4,157         |
| — Part of Buckinghamshire - - - - -  | 1,532         |
| — Ditto Hampshire - - - - -          | 1,346         |
| — Quebec - - - - -                   | 5,870         |
| — Orleans - - - - -                  | 1,018         |
| — Northumberland - - - - -           | 2,445         |
| " Total district of Quebec - - - - - | 24,484        |
| " Total county of Warwick - - - - -  | 4,904         |
| " Grand Total - - - - -              | <u>29,388</u> |

" *February 2, 1828.*"

*“ Resolutions on which the foregoing Petition was founded:*

“ At a Meeting of Electors of the city and suburbs of Quebec, who approve of the conduct of the House of Assembly, called for the purpose of considering the expediency of submitting, by humble petition to His Majesty and both Houses of Parliament, the present state of the province, and the abuses and grievances which prevail therein, and praying for relief and justice; held at Malhiot's Hotel, the 13th of December, 1827;

“ LOUIS ABRAHAM LAGUEUX, Esq. in the Chair.

*“ It was Resolved:—*

“ 1st. That there was reason to hope, that in the session of the Provincial Parliament, assembled on the 20th of November last for the dispatch of public business, the state of the province would have been improved, and the evils which weigh on its inhabitants remedied, or put in a course to be removed, and its peace, welfare, and good government promoted.

“ 2nd. That the said session has been interrupted by the refusal, on the part of His Excellency the Governor-in-Chief, to approve, according to parliamentary usage, the Speaker chosen and presented by the Assembly in the usual manner, and by the proclamation of the 22nd of November proroguing the Provincial Parliament.

“ 3rd. That it is expedient, under the foregoing circumstances, to submit, by humble petition to His Majesty and the two Houses of the Parliament of the United Kingdom, the present state of the province, and the evils to which its inhabitants are exposed, in the hope that, in the exercise of the Royal Prerogative and the justice of Parliament, a remedy may be applied, whereby the constitution of this province, as now established by Act of the Parliament of Great Britain, may be preserved and maintained unimpaired.

“ 4th. That, for several years past, the income of real estate in this province, the profits of trade and industry, and the wages of labour therein, have greatly diminished, and are still diminishing, with new and alarming features.

“ 5th. That, besides the ensuring to the subject the most perfect security of his person and property, the aiding and facilitating the diffusion of useful knowledge, and the free exercise of industry and enterprise, are amongst the most efficient means of promoting the general prosperity, and preventing its decline.

“ 6th. That, although large sums of public money have been appropriated by the Legislature of this province, since the conclusion of the late war, in aid of education, and for facilitating industry, by opening and improving internal communications, and that these appropriations have been applied under the direction of the Provisional Executive, they have produced no adequate advantages, while many of the persons entrusted by the said Executive with the expenditure of the said monies have tardily or insufficiently accounted for the same.

“ 7th. That, under the present circumstances of the province, no taxes or new duties for the public uses thereof can, equitably, be imposed, and no dependence can be placed on any funds for aiding in the diffusion of education, and facilitating the exertions of individual industry and enterprise, other than such funds as may be derived from the existing public revenue of the province.

“ 8th. That more than one-half of the gross amount of the said public revenue has been applied for several years past to the payment of the salaries, emoluments, and expenses of the officers of the Civil Government of the province, exclusive of the usual special appropriations.

“ 9th. That the said salaries, emoluments, and expenses, have been greatly increased, without the concurrence or consent of the Legislature, for many years past, and are in several instances paid to absentees and persons who have rendered no service therefore to this province ; and, in other

instances, the said salaries, emoluments, and expenses are excessive, compared with the services rendered, and with the incomes derived from real estate, and the usual recompense obtained by individuals of talent, character, and industry, equal to those of the persons who hold the said salaries and emoluments.

“ 10<sup>th</sup>. That, besides the unnecessary and excessive salaries, emoluments, and expenses, fees, increasing to a heavy and grievous amount, are paid by the subjects to divers officers of Government, whereby individuals are burdened, the protection of the law and the benefit of government are lessened, and the resources of the country for its necessary wants diminished.

“ 11<sup>th</sup>. That a majority of persons, chiefly dependent, for the support of themselves and their families, on the salaries and emoluments of public offices held during pleasure, have been placed in the Executive and Legislative Councils of this province, several of whom have a direct individual interest in maintaining and increasing the said excessive salaries, fees, emoluments, and expenses, and perpetuating other abuses profitable to persons in office.

“ 12<sup>th</sup>. That a majority in the said Legislative Council, chiefly consisting of executive councillors, judges, and other officers, so holding during pleasure, have, year after year, rejected, refused, or neglected to proceed upon various necessary Bills sent up by the Representative Assembly of the province, for the remedy of abuses grievous to the subject, for aiding in the diffusion of education, for furthering the general convenience and improvement of the country, for increasing the security of persons and property, and promoting the common welfare and prosperity; particularly, enumerating the Bills already mentioned in the foregoing petition.

“ 13<sup>th</sup>. That the repeated rejection, the refusal or neglect to proceed upon these and other necessary Bills sent up by the Assembly to the Legislative Council, by a majority of the said Council, formed of executive councillors, judges, and officers holding their commissions during pleasure, must

be held to be the act of the Executive Government of the province, and, as such, constitutes a public grievance, destructive of the ends of the constitution of Government as by law established in this province.

“ 14th. That large sums of money, of the proceeds of the public revenue levied in this province, have been applied, by warrant of the Executive Government, year after year, without any appropriation by the Legislative Body therein (while the necessary appropriations were rejected in the said Legislative Council), for the payment of alleged expenses of the Civil Government, and other expenses, for which no services were rendered to the province, or for new and increased salaries and allowances, never recognised by the Legislature.

“ 15th. That large sums of money, of the proceeds of the public revenue raised within this province, in the hands of the late Receiver-General, and other depositaries of public monies, then and still under the control and superintendence of the Provincial Executive, have been dissipated, and other officers appointed in their stead, without any adequate securities being taken for the future; thereby occasioning and exposing the public to grievous losses, wasting or endangering the resources of the province, and subjecting its inhabitants to unnecessary burdens.

“ 16th. That various other sums of money, appropriated by the Legislature, have been advanced to divers persons appointed by the Executive, many of whom have not accounted for such advances in due time, have insufficiently accounted, or not accounted in any shape whatsoever, as appears by the statement laid before the Assembly, on address, in the session of 1826; and that persons, then in default on the said statement, have been appointed to other situations of honour, trust, and profit.

“ 17th. That the college and revenues of the estates of the late Order of Jesuits, in this province, originally erected and formerly applied for the civil and religious education of the youth of this province, have not been so applied for

many years past, and are in no way accounted for to the Legislature, or the inhabitants of this province.

“ 18th. That large portions of the waste lands, granted or reserved by the crown, in this province, have been long held, and continue to be held, in the midst of, or in the immediate vicinity of actual settlements, without the owners or possessors thereof having been compelled to perform the duty of settlement, upon which such lands were granted by the crown, or any other duty in relation to the said lands, to the grievous burden of the actual settlers, the hindrance of new settlers, and the obstruction of the general increase and prosperity of the province.

“ 19th. That, during the prevalence of these and other abuses and grievances, false representations and attempts have been repeatedly made, by divers officers of the Provincial Executive, to obtain from His Majesty's Government in England, and the Parliament of the United Kingdom, various alterations in the constitution of the Government of this province, as established by an Act of the British Parliament, prejudicial to the rights and interests of this province, without their knowledge, and at a time when the said inhabitants were prevented, by the said majority of executive councillors, judges, and other officers in the Legislative Council, from having an authorised agent in England, to attend to their interests, and enable them to be heard by the Government of the mother country.

“ 20th. That the revival, or continuation, by the Act of the Parliament of the United Kingdom (4 Geo. IV., cap. 6), of temporary duties imposed by provincial Acts, were so obtained, as well as the Acts affecting the tenures of land in this province, the whole prejudicial to the dearest rights and essential interests of the inhabitants of this province, and without the knowledge or consent of the persons chiefly affected by the said Acts.

“ 21st. That the afore-mentioned

“ Application of monies levied in this province, without appropriations by the Legislature thereof;

- “ The said advances of money, to persons who have not sufficiently accounted for the same ;
- “ The said dissipation of public money, and appointment of persons to be entrusted with public monies, without full security given ;
- “ The diversion of the revenues of the estates of the late Order of the Jesuits, from purposes of education of the youth of this province ;
- “ The inexecution of the conditions of the grants of the waste lands of the crown, and the aforesaid attempts on the part of the officers of the Executive Government to obtain alterations in England of the established constitution and laws of the province, without the knowledge of the inhabitants generally, and without their having had an opportunity of being heard ;

are grievances dangerous to the peace, welfare, and good government of this province.

“ *22nd.* That the prayer of the petition to His Majesty be, that he would take the premises into his most gracious consideration, and so exercise his royal prerogative, that his subjects in this province be relieved from the said abuses and grievances, and that justice be done therein ; that the inhabitants of this province be secured in the full enjoyment of the constitution of government, as established by the Act passed in the thirty-first year of the reign of his late royal father of revered memory.

“ *23rd.* That the prayer to both Houses of Parliament be, that they would take the premises into consideration, cause inquiry to be made and the petitioners to be heard, that justice may be done thereon, and the subject in this province be secured in the full enjoyment of the constitution of Government, as established by the Act of the Parliament of Great Britain, passed in the thirty-first year of the reign of His late Majesty, without any alteration thereof whatsoever.

“ *24th.* That a committee of thirty-five electors, duly

qualified by law to vote for Members of the Assembly of this province, be appointed to draft and prepare petitions on the foregoing resolutions, with full power to take all the necessary steps for submitting them for the signature of the electors generally; for causing the said petitions to be laid at the foot of the throne, and presented to the Lords and Commons; and also to give effect to and support the same by evidence.

“ 25th. That this meeting will contribute, and assist in procuring voluntary subscriptions, to cover the necessary expenditure for the aforesaid purposes.

“ 26th. That Messrs. Amable Berthelot, François Blanchot, J. L. Borgia, J. B. E. Bacquet, Robert Blackiston, Michel Borne, J. Bigaoutte, Michel Clouet, John Cannon, Joseph Dorion, Etienne Defoy, John Duval, John Fraser, H. G. Forsyth, Pierre Faucher, Joseph Gagné, A. R. Hamel, H. S. Huot, Louis Lagueux, Joseph Legaré, père, Louis Lagueux, fils, Jacques Leblond, Et. C. Lagueux, Jean Langevin, Ignace Legaré, J. L. Marett, Louis Massue, Joachim Mondore, John Neilson, Vallieres de St. Réal, Pierre Pelletier, Joseph Roy, Augt. Gauthier, and Louis Fortier, do compose the said committee, and that nine form a quorum; notices, in writing, of the time and place of meeting being previously left at the domicile of each of the said committee.

“ 27th. That the said committee have power to add to their number, and be empowered to aid in forwarding similar petitions from any other parts of this district, in cases where application may be made to them to that effect, and where contributions may have been made to the funds of the said committee, in aid of the afore-mentioned expenditure.

“ 28th. That Joseph Roy, Esq. be treasurer of the said committee, and be held to account to the said committee, and a meeting of electors publicly called; and that all payments made by him be vouched by orders of the said committee, attested by the signature of the secretary.

“ LOUIS A. LAGUEUX, *President*.

“ H. S. HUOT, *Secretary*.”

"At a meeting of the committee, on Friday, the 14th of December, 1827, the following officers were appointed:—

"J. R. VALLIERES DE ST. REAL, Esquire, *President*.

"HENRY GEORGE FORSYTH, Esquire, }  
"LOUIS ABRAHAM LAGUEUX, Esquire, } *Vice-Presidents*.

"Messrs. H. S. HUOT and J. B. E. BACQUET, *Secretaries*.

"H. S. HUOT, *Secretary*."

—◆—  
"PROVINCE OF LOWER CANADA.

"*Petition of the Counties in the Districts of Montreal, and Three Rivers\**.

"À LA TRÈS EXCELLENTE MAJESTÉ DU ROI,

"*La Pétition des soussignés fidèles et loyaux sujets de votre Majesté résidens dans le Bas-Canada.*

"*Qu'il plaise à votre Majesté,*—Dans une partie éloignée des immenses domaines de votre Majesté, il existe un peuple peu nombreux, il est vrai, mais fidèle et loyal: il jouit avec orgueil et reconnaissance, sous la domination de votre Majesté, du noble titre de sujets Britanniques, qui lui a été conféré sous le règne de votre père de glorieuse mémoire, avec tous les droits qui font de ce titre un objet d'envie. Plus ce bienfait était grand, plus votre bon peuple du Bas-Canada a cru devoir montrer de reconnaissance: l'histoire est là pour déposer en notre faveur: laissons lui le soin de prouver que nous avons deux fois empêché ce pays de passer sous une domination étrangère.

"Reconnaissans de l'inestimable présent que nous a fait la mère-patrie en nous accordant notre constitution, convaincus qu'elle peut faire le bonheur de vos fidèles sujets en Canada, le premier de nos vœux est de la conserver intacte et de jouir librement des droits précieux qu'elle nous assure:

\* "The original of this Petition having been in French, it is given in preference to the English. The Petitions to the Lords and Commons are the same as the Petition to the King, with the necessary changes in the style."

“ Parmi les droits inhérents au titre de sujets Britanniques, celui de pétition est un des plus importants et des plus sacrés : il assure au plus pauvre individu le droit d'être entendu et l'espoir de la justice lors même qu'il se plaint des personnes les plus élevées en dignité. La voix de tout un peuple sera sans doute encore plus puissante, lorsqu'elle parviendra aux pieds de votre trône, et qu'elle révélera à votre Majesté que l'oppression peut exister sous son Gouvernement paternel.

“ L'éloignement où nous sommes du siège de l'empire, et l'espoir d'un changement pour le mieux, nous ont engagés jusqu'à ce jour à un pénible silence ; mais l'excès du mal nous force enfin à le rompre. Il ne convient pas au caractère de sujet Britannique de souffrir servilement l'oppression : la patience dans ce cas n'est une vertu que pour des esclaves.

“ Nous venons déposer à vos pieds nos justes plaintes contre Son Excellence George Comte de Dalhousie. Chargé par vous-même de vous représenter dans votre colonie, et de nous faire éprouver les bienfaits du gouvernement de votre Majesté, il s'en faut de beaucoup, malheureusement pour nous, qu'il ait rempli la haute mission dont vous l'aviez gracieusement chargé pour le bonheur de vos fidèles sujets Canadiens.

“ Il a, pendant son administration, commis différents actes arbitraires, tendant à aliéner l'affection des fidèles sujets de votre Majesté, et subversifs du gouvernement tel qu'établi par la loi dans cette province.

“ Il a, par warrant ou autrement, tiré des mains du receveur-général de cette province des sommes considérables, sans y être autorisé par la loi.

“ Il a, volontairement et méchamment, tronqué, supprimé, gardé par-devers lui, et soustrait à la connaissance du Parlement Provincial, divers documens et papiers publics nécessaires à la dépêche des affaires et au bon gouvernement de cette province, et ce au grand détriment du service public et au grand préjudice des sujets de votre Majesté en la dite province.

“ Il a volontairement et en violation de son devoir envers

son souverain et ses fidèles sujets en cette province, conservé dans l'exercice de ses fonctions, John Caldwell, Ecuyer, ci-devant receveur-général, entre les mains duquel le revenu public de cette province était versé, en vertu de la loi et des instructions royales, longtemps après que ce fonctionnaire public avait avoué sa malversation et déclaré son incapacité de satisfaire aux demandes faites contre lui pour le service public : et ce au grand détriment des habitans de cette province, et au grand préjudice du service, et de la foi publique.

“ Il a, en opposition à la pratique constante du gouvernement de votre Majesté, et en violation de son devoir comme administrateur du gouvernement de cette province, nommé John Hale, Ecuyer, pour remplacer le dit John Caldwell, comme receveur-général, sans exiger ni requérir de lui les sûretés ordinaires requises pour assurer la due exécution des devoirs de cette place.

“ Il s'est en différents temps servi de son autorité comme Commandant-en-Chef, pour influencer et intimider les habitans de cette province dans l'exercice de leurs droits civils et politiques.

“ Il a comme Commandant-en-Chef renvoyé et disgracié un grand nombre d'officiers de milice dans la province, sans cause juste, ou raison suffisante.

“ Il a sans cause, ou raison suffisante, arbitrairement et despotiquement, renvoyé et privé plusieurs officiers civils des places de confiance et de responsabilité qu'ils occupaient, et ce au préjudice de ces officiers et du service public.

“ Il a maintenu et conservé, conserve et maintient en place, plusieurs fonctionnaires publics, après qu'il a été prouvé que leur nomination à telles places, ou que leur conduite dans l'exercice de leurs fonctions étaient préjudiciables au service de votre Majesté et aux intérêts de ses sujets dans cette province.

“ Il a multiplié dans des temps de tranquillité, et sans aucune nécessité, des Cours Spéciales d'Oyer et Terminer, outre les termes réguliers et ordinaires des cours criminelles établies par la loi, imposant par là un fardeau considérable

aux sujets de votre Majesté, et une dépense énorme à la province.

“ Il a, par des prorogations et dissolution subites et violentes du Parlement Provincial, nui aux intérêts publics de cette province, retardé ses progrès, empêché la passation d'actes utiles : il a dans ses discours lors de telles prorogations, faussement accusé les représentants du peuple, afin de les décrier dans l'opinion de leurs constituants et dans la vue de créer auprès du Gouvernement de votre Majesté des préjugés défavorables à la loyauté et au caractère des sujets Canadiens de votre Majesté : il a toléré et permis que les Gazettes du Gouvernement publiées sous son autorité ou sous son contrôle, portassant journellement les accusations les plus fausses et les plus calomnieuses contre la Chambre d'Assemblée, ainsi que contre tout le peuple de cette province.

“ Il a par le même moyen menacé le pays d'exercer la Prérogative Royale d'une manière violente, despotique et désastreuse, c'est-à-dire, de dissoudre continuellement, ou selon l'expression insultante de ces menaces, de chasser le corps représentatif jusqu'à ce que les francs-tenanciers et les propriétaires se vissent obligés de choisir pour représentants, non plus ceux qui auraient leur confiance, mais ceux qui seraient disposés à tout accorder à l'Exécutif et à lui sacrifier le droit qu'a le peuple de cette province, agissant par ses représentants, de déterminer quelle somme des deniers publics l'administration aura le droit de dépenser, et d'assurer l'emploi fidèle de ces deniers ; ou bien qu'il punirait la province en rejetant les Bills passés par les représentants du peuple pour l'avantage général, jusqu'à ce qu'ils abandonnassent le droit de fixer et de contrôler la dépense ; et que les magistrats et les juges du pays seraient, aussi bien que les bas officiers, destitués des hautes et importantes places qu'ils occupent, et qui, dans l'intérêt public comme dans l'intérêt des particuliers, exigent l'indépendance et l'impartialité la plus absolue, s'ils n'étaient pas agréables à la présente administration.

“ Il a, conformément à la politique vindicative ainsi avouée par ces écrivains par lui employés, puni en effet le

pays, en ne donnant point la sanction royale à cinq Bills d'appropriation pour aider les progrès et l'amélioration du pays en 1826, auxquels votre Majesté a bien voulu depuis donner sa sanction, et en permettant à ses conseillers exécutifs et autres personnes sous son contrôle et possédant des places durant plaisir, de se servir de leur prépondérance dans le Conseil Législatif dont ils sont aussi membres, pour supporter cette politique vindicative, et rejeter, en 1827, tous les Bills d'appropriation pour l'avancement de la province et pour des objets de charité qui avaient été passés annuellement depuis un grand nombre d'années.

“ Il a violé les franchises électives des habitants de cette province, en essayant directement et indirectement d'influer sur l'élection des Membres de la Chambre d'Assemblée de cette province.

“ Il a enfin, par tous ces divers actes d'oppression, créé dans tout le pays un sentiment d'alarme et de mécontentement, déprécié l'autorité du pouvoir judiciaire dans l'opinion publique, affaibli la confiance du peuple dans l'administration de la justice, et inspiré dans toute la province un sentiment insurmontable de méfiance, de soupçon et de dégoût contre son administration.

“ Nous osons donc supplier votre Majesté de vouloir bien prendre en sa royale considération les vexations qu'ont éprouvées vos fidèles sujets dans cette partie éloignée de vos domaines. Pressés sous les poids de tant d'actes d'oppression nous avons cru devoir supplier votre Majesté de vouloir bien, pour l'intérêt de son service dans cette colonie, et l'avantage de ses fidèles sujets y résidens, rappeler pour toujours son Excellence le Gouverneur-en-Chef, comme ne pouvant plus jouir de la confiance publique dans cette province, ni en administrer le gouvernement avec honneur pour la couronne ou avec avantage pour le peuple.

“ *Qu'il plaise à votre Majesté,*—Privés comme nous le sommes maintenant, par la prorogation du Parlement Provincial, des services publics de nos représentants, des services que nous avons droit d'attendre de leur zèle connu pour les

intérêts de la province, et de leur patriotisme éprouvé, nous sommes dans la nécessité de soumettre nous-mêmes à la bienveillante considération de votre Majesté, quelques objets que nous estimons de la plus haute importance pour le bien être du pays, objets qui tendent également à assurer le bonheur du peuple, et à rendre cette colonie plus utile à l'Empire Britannique, ce qui ne peut qu'intéresser le cœur royal de votre Majesté, sous le double rapport de père de son peuple et de chef suprême d'un puissant empire.

“ L'éducation est le premier des biens qu'un père puisse donner à son fils, le premier des biens qu'une législation éclairée puisse assurer aux peuples. En rendant justice aux efforts qui ont été faits dans ce pays vers cet objet important, par plusieurs corps et par un grand nombre de particuliers, on ne peut cependant disconvenir que l'éducation publique n'est pas encouragée dans ce pays en proportion de ses besoins. Et pourtant la province n'était pas dépourvue de moyens : la munificence des Rois de France et les bienfaits de quelques particuliers n'avaient rien laissé à désirer à ce sujet. Des fondations vraiment royales, tant par leur objet que par leur étendue, assuraient à ce pays des ressources suffisantes pour les temps, et croissantes avec les besoins de la population. Depuis l'extinction de l'Ordre des Jésuites en ce pays, ses biens sont passés aux mains du gouvernement de votre Majesté. Votre Majesté peut seule les rendre à leur première, à leur bienfaisante destination. Nous l'en supplions très-humblement. Qu'il ne puisse pas être dit que cette province a été privée sous le gouvernement du Roi constitutionnel de la Grande Bretagne, des bienfaits que le Roi absolu de la France lui avait conférés pour l'éducation de ces habitants.

“ Un des droits naturels, fondamentaux, inaliénables des sujets Britanniques, un des titres de leur gloire et de leur sûreté, c'est le droit de se taxer eux-mêmes et de contribuer librement aux charges publiques selon leurs moyens. A ce titre naturel nous joignons encore les droits résultants de la loi écrite, des Actes du Parlement Impérial, qui déclarent

que l'Angleterre renonce à imposer des taxes dans les colonies, et qui donnent à cette province le droit de faire des lois pour sa tranquillité, son bonheur, et son bon gouvernement.

“ Nous supplions humblement votre Majesté d'excuser notre témérité, ou bien plutôt d'approuver la confiance en votre justice et en celle du Parlement Impérial, qui nous engage à nous plaindre de ce que ces droits ont été lésés d'une manière grave par des Actes du Parlement Impérial. Nous faisons allusion surtout à l'Acte de Commerce du Canada, passé dans la troisième année du règne de votre Majesté, ch. 119, et à celui des Tenures des Terres, passé dans la sixième année du règne de votre Majesté, ch. 59, contre lequel nous avons déjà adressé par la voie de nos représentants à votre Majesté nos humbles réclamations: l'un établit directement des impôts dans cette colonie, et les rend perpétuels sans la participation du Parlement Provincial; l'autre touche à des objets de législation intérieure sur lesquels nous croyons humblement que la Législature Coloniale avait pleine juridiction.

“ Nous croirions, Sire, mériter bien peu les inestimables bienfaits que nous procure la constitution qui nous régit, si nous ne faisons tous nos efforts pour la conserver intacte. C'est prouver combien nous en sentons tout le prix.

“ La cumulation dans une seule et même personne de plusieurs places importantes dans ces colonies, et qui nous semblent incompatibles, est un obstacle vivement senti, un obstacle considérable au bon gouvernement de cette province. Nous voyons dans ce pays les places de juges du Banc du Roi, de conseillers exécutifs et législatifs, possédées par la même personne. Nous croyons humblement que ces hautes fonctions devraient être exercées isolément au lieu d'être cumulées: que les juges, bornés aux importantes fonctions de leur état, ne devraient pas siéger dans les conseils: que les conseillers législatifs ne devraient pas être admis au Conseil Exécutif, et *vice versa*: qu'il serait convenable que les juges fussent plus indépendans, sujets seulement avec les autres grands fonctionnaires publics, à un

tribunal établi dans la province pour juger des *impeachments*. Nous avons déjà fait des représentations et des démarches concernant ces différents objets par le moyen de nos représentants dans la Chambre d'Assemblée. Les mesures par eux proposées ont échoué dans les autres branches de la Législature. Nous supplions humblement votre Majesté de vouloir bien prendre en sa considération royale les maux nombreux qui doivent inévitablement résulter de cette distribution impolitique et peu sage de tous les pouvoirs du gouvernement, afin qu'étant très-justement condamnés par votre Majesté, il vous plaise ordonner à vos Ministres de donner des instructions au Gouvernement Colonial à ce sujet, de manière à autoriser la passation d'Actes par le Parlement Provincial, qui tendraient à corriger ces abus.

“ L'accroissement rapide de la population depuis la première démarcation des comtés, rendant nécessaire un changement correspondant dans la représentation provinciale, notre Parlement jugea prudent, comme mesure préliminaire, de constater l'état actuel de la population, par un recensement qui devait servir de base aux changemens à faire dans la représentation. La Chambre d'Assemblée passa ensuite à plusieurs reprises un Bill pour augmenter le nombre des comtés et des représentants. Ces Bills ont également échoué dans les autres branches de la Législature.

“ Il est encore un objet qui intéresse vivement le peuple de cette province ; c'est la nomination d'un agent provincial accrédité, auprès du Gouvernement de votre Majesté, qui pourrait faire parvenir aux pieds du trône l'expression de nos besoins, fournir aux Ministres de votre Majesté des renseignemens utiles, et veiller à nos intérêts particuliers. Cette province a déjà plus d'une fois éprouvé le besoin d'un semblable agent : ses représentants n'ont pas encore pu réussir à obtenir passation d'un Acte à cet effet. Les accusations mal fondées portées par le Gouverneur-en-Chef contre la Chambre d'Assemblée, dans son discours de prorogation du dernier Parlement, auxquelles la Chambre n'a pas encore eu occasion de répondre, démontrent la nécessité d'un agent ;

le Gouverneur qui accuse la Chambre ne pouvant guère être le canal de communication dont les accusés puissent se servir avec confiance pour défendre leur cause. Nous supplions humblement votre Majesté, de vouloir bien ordonner à vos Ministres de donner des instructions au Gouvernement Colonial, en vertu desquelles un Bill pour l'augmentation de la représentation puisse être sanctionné, ainsi qu'un Bill pour accorder à cette province l'avantage dont jouissent la plupart des autres colonies de votre Majesté, celui d'avoir un agent colonial, nommé et député par le peuple de la colonie, pour veiller à ses intérêts en Angleterre.

“ Le tout très-humblement soumis à la bienveillance et à la sagesse de votre Majesté, par les fidèles et loyaux sujets de votre Majesté dans le Bas-Canada, les Pétitionnaires sous-signés qui comme il est de leur devoir ne cesseront de prier.

“ *Bas-Canada, Janvier 1828.*”

“ *Recapitulation of Signatures to February 6th, 1828:—*

|                                                                 |           |                |
|-----------------------------------------------------------------|-----------|----------------|
| “ County of Montreal                                            | - - - - - | 7,753          |
| — Kent                                                          | - - - - - | 2,163          |
| — Huntingdon                                                    | - - - - - | 5,327          |
| — Leinster                                                      | - - - - - | 6,192          |
| — Surrey                                                        | - - - - - | 3,080          |
| — Bedford                                                       | - - - - - | 1,342          |
| — York                                                          | - - - - - | 4,199          |
| — Richelieu                                                     | - - - - - | 8,175          |
| — Effingham                                                     | - - - - - | 2,654          |
| “ Total district of Montreal                                    | - - - - - | 40,885         |
| “ Total district of Three Rivers                                | - - - - - | 10,665         |
|                                                                 |           | <u>51,550</u>  |
| “ District of Quebec                                            | - - - - - | 29,328         |
| “ Total to both Petitions                                       | - - - - - | 80,878         |
| “ <i>Forwarded since, to 17th February, 1828:—</i>              |           |                |
| “ District of Montreal and Three Rivers, and district of Quebec | - - - - - | 6,212          |
| “ Grand Total                                                   | - - - - - | <u>87,090”</u> |

*“ Chairmen of the several County Committees, who have certified the appointment of the agents to the petitioners ; viz.—Messrs. NEILSON, VIGER, CUVILLIER, Members of the Assembly of Lower Canada.*

|                         |           |   |                                                           |
|-------------------------|-----------|---|-----------------------------------------------------------|
| FRAN. DESRIVIERES       | - - - - - | { | Chairman of the Petitioners<br>in the County of Montreal. |
| FRAN. ANT. LA ROCQUE    | - - - - - |   | Montreal.                                                 |
| RENÉ DE LA BRUERE       | - - - - - |   | County of Kent.                                           |
| LNT. LE ROUX            | - - - - - |   | County of Leinster.                                       |
| PIERRE AMIOT            | - - - - - |   | County of Surrey.                                         |
| CHAS. ST. OURS          | - - - - - | { | County of Richelieu.                                      |
| P. D. DEBARTZCH         | - - - - - |   |                                                           |
| HERTEL DE ROUVILLE      | - - - - - |   | County of Bedford.                                        |
| FRANCOIS XAVIER MALHIOT | - - - - - |   | County of Surrey.                                         |
| IGNACE RAIZENNE         | - - - - - |   | County of York.                                           |
| LOUIS ROY PORTELANCE    | - - - - - |   | Montreal.                                                 |

*“ District of Montreal, February 1828.”*

Lord Dalhousie has, since the presentation of these petitions, been recalled ; and is now on his way to India, for the purpose of assuming a military command : a post far more fitted to his character than a civil situation.

Under the present Governor, Sir James Kempt, affairs have taken a more favourable turn ; and I will close this shorth sketch of Canadian history, by stating the result of the labours of the last session of the Provincial Parliament, so far as we have been enabled yet to learn them.

Seventy-two Bills, of the greatest importance, have been passed, having received the Governor's assent. Among these Bills are, *first*, one providing for the payment of the arrears of the year 1826 ; and, *secondly*, another providing for the expenses of the current year : this last having been passed upon the same principle as that of the year 1825 ; viz. the money is voted in chapters, as we have formerly explained, upon condition that fifteen days after the next meeting of the Legislature, accounts of the monies disbursed

shall be rendered to the House. This is, undoubtedly, a wise provision : but we cannot avoid expressing our surprise at the fact, that the Legislative Council, composed of the very same members during the whole time, should, in 1825, indignantly reject this Bill ; in 1826 assent to it ; in 1827 reject it ; and, in 1828, again accept it. This single statement proves the influence of the Executive Council over the Legislative.

Six other Bills also passed the House of Assembly and the Council, but have been referred to His Majesty, for his approbation. It is to be regretted that two important Bills, connected with the administration of justice, failed in the Lower House ; one of which was introduced by Mr. Viger, and entitled a Bill of Judicature ; the other, introduced by Mr. Vallieres de St. Réal\*, respecting the qualifications of justices of the peace.

The House, during this session, has exhibited a great degree of liberality in all its grants of money, having voted £.200,000 for general improvements.

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*His Excellency Sir James Kempt's Speech, in proroguing the Provincial Parliament of Lower Canada, on the 14th of March, 1829.*

“ *Gentlemen of the Legislative Council,*

“ *Gentlemen of the House of Assembly,*

“ After so long and so laborious a session, it affords me great pleasure to be enabled to release you from any further attendance in the Provincial Parliament, and to convey to you my best thanks for the great diligence with which you have discharged your legislative duties.

“ Your labours have been productive of a variety of useful and important Acts, which you have presented to me for His Majesty's assent ; and I notice, with peculiar satis-

\* Now judge for the district of Three Rivers.

faction, the liberality of the appropriations for many objects of great public interest, calculated to promote the general welfare and prosperity of the province. It will be my earnest endeavour to see that monies so liberally granted are faithfully and judiciously applied to the several objects they are intended to promote.

*" Gentlemen of the House of Assembly,*

" I thank you, in His Majesty's name, for the supplies which you have granted in aid of the revenue, already unappropriated by law, for defraying the expenses of the civil government, and the administration of justice.

*" Gentlemen of the Legislative Council,*

*" Gentlemen of the House of Assembly,*

" Several measures of public importance have come under your consideration, in the course of the present session, which the pressure of other business, and the want of time, have prevented your maturing; but I feel persuaded that they will engage your early attention in the next meeting of the Provincial Parliament.

" I had entertained a hope, that the inhabitants of the province would have been relieved from any inconvenience to which they may be subjected, under the ordinances now in force, by the passing of the Militia Bill; and I cannot but express my regret that it has not taken place."

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It is to be hoped that the same good understanding will continue to exist between the Governor and the people, and that he will be able to remain equally independent of the Executive Council, and act according to the dictates of common sense and common honesty, rather than in compliance with the interested views of that, hitherto, all-powerful body. This, however, must of necessity be only a temporary remedy: that which we shall hereafter propose will be of a much more permanent nature; depending, not upon circumstances of the moment, nor upon individual character, but grounded upon the principles of human nature, which are the same eternally.

## CHAPTER IV.

*Of the Character, Manners, Customs, Industry, and Religion of the Canadians—French Population—State of the People—Agriculture—Food—Clothing—Habitations—Amusements of the People—Their Character.*

HAVING given what I believe to be a correct, though, I fear, somewhat general, account of the political affairs of Lower Canada, I proceed to lay before the reader a description of the manners and customs of my countrymen. This task I have not undertaken from any feelings of partiality or vanity; nor, in fact, with an expectation of gaining the good will of my reader by attempting to please him: the subject indeed will, I suspect, hardly be found one of mere amusement, the end in view being not so much to give a lively picture of a state of society differing from our own here in England, as to convey a *correct* conception of the country and its inhabitants; and endeavouring, by that means, to make the English public completely understand, both the observations already advanced, and those which I intend to hazard respecting the remedies for the evils which so long have beset the government of the country. On a matter wherein many have already exposed themselves to criticism, it may be thought presumptuous in me to speak; and, indeed, I frankly own, that it is with great reluctance that I have undertaken to do so: I know full well, that, to describe either an individual or a people, without wounding

some self-love, is utterly impossible: the necessity of the thing, however, has induced me to brave this danger, and to attempt to paint in his true colours the so often calumniated and caricatured *Jean Baptiste*\*; to show that the Canadians are, although of French extraction, not French, nor even Iroquois, nor Germans, nor English, nor Scotch, nor Yankees, but that they are, assuredly, *Canadians*.

“Qu'est-ce que les Canadiens? L'histoire dira, sans doute, que ce sont des sujets Britanniques dévoués et fidèles, qui dans un temps où toutes les colonies voisines se séparaient de l'empire d'où elles tiraient leur origine, sont seuls demeurés attachés à cet empire, quoiqu'ils n'en fussent membres que depuis quelques années et par adoption; que depuis ils ont invariablement soutenu leur gouvernement, et qu'ils ont montré le plus grand courage à le défendre. L'histoire dira de plus que le plan constant des ennemis du pays, a été d'en réduire les habitants à la nullité politique la plus complète, et de les faire passer pour des ignorants† incapables d'avoir part aux affaires, et de tâcher, par tous les moyens possibles, de les anéantir. La mère patrie est-elle coupable de ces attentats contre le plus paisible des peuples? Il est aisé de dire que non, parceque nous savons que tous les plans, tous les projets dont on nous a menacés, ont prit leur origine au milieu de nous; et que quand on est parvenu à suspendre la justice de l'empire Britannique, ce n'a été qu'en le trompant, et en lui faisant voir notre avantage dans

\* I have here, not having the dread of criticism before my eyes, hazarded the use of a provincial epithet. *Jean Baptiste* is used, with reference to the Canadian people, as is *John Bull* with reference to the English.

† In visiting Scotland last summer, I met, on board one of the steam boats, Captain Basil Hall, on his return from America. As he had visited Lower Canada, I did not fail to ask his opinion of that country. “Oh!” said he, “it is a very fine country, but the people are very ignorant; I am positively assured, that the greatest part of the representatives in the House of Assembly cannot even sign their names.” Such is Captain Hall's information respecting Lower Canada; I only hope, for his own sake, that what he has just now laid before the public, respecting the United States and other parts of North America, is more substantially correct.

des projets destinés à transporter nos droits et nos propriétés aux auteurs mêmes de ces projets\*.”

The climate, the wild country which they have inhabited, and, at first, their continual communications with the *aborigines*, have had powerful effects upon the character and habitudes of the great body of the Canadian people; and in those portions of the country which are situated at a distance from the cities, the manners of the inhabitants resemble more particularly those of the children of nature who were originally lords of the country: But in a country long possessed by the French, it is not surprising that the usages now in vogue should bear a strong similarity to those of France; in the building of their houses, in the distribution of the apartments, the same taste, the same *elegance* (if I may use such expressions in such a matter) are observed, as still are to be found in the various provinces of France, in spite of the great changes effected by the revolution. The furniture, even, is almost precisely the same. During my residence in France, I failed not to visit a large number of the peasants' houses, and to investigate, somewhat narrowly, into their various customs and peculiarities. The resemblance between the interior of a peasant's dwelling in Normandy, and on the banks of the St. Lawrence, was, to a practised eye, close and remarkable: with the exception of the flooring, which in Canada is always of wood, in France of bricks or flat stones, every thing is nearly precisely the same; the chimney always in the centre of the building; the partition between the kitchen and the large room in which the inhabitants dwell, at each end of which are the small sleeping apartments. “Le lit principal, entourré de serge verte qui est suspendue au plancher du haut de la grande salle, par une targette en fer, le bénitier et petit crucifix à la tête; la grande table à manger, la couchette des enfans sur des roulettes en bois au-dessous du grand lit, les différents coffres pour y déposer l'habillement du

\* *La Minerve*, 23 Avril, 1827.

dimanche ; l'ornement des poutres, la longue pipe, le tulle Français ou fusil à long calibre, la corne à poudre, le sac à plomb, etc. etc., m'ont fait penser plus d'une fois à la résidence de mon ami Jean Gilbeau de St. Joachim\*."

The ordinary distinctions of rank, as known in the several countries in Europe, exist not in Canada. We have not, in the strict sense of the word, either a *noblesse*, or an *aristocracy* of any kind, though many and important are the distinctions which are really to be found among the people. These divisions or classes, and the habits and manners of each, it is the object of the present chapter to explain.

The most important and marked distinction existing in the country, is of FRENCH and ENGLISH; meaning, by French, all such as were originally, or have, by long dwelling in the country or otherwise, become attached to the French Canadian habits and language; meaning, by English, such as are really English, or have, in spite of their continuance in the country, retained a decided predilection for what they believe to be English manners, language, tastes, &c. The evil effects of this division among the people will immediately be seen, when I come to explain the characteristics of the English portion of the population.

The French population, included in the description I have just given, have, by the lapse of years, changed greatly, as regards the various divisions existing among them. The early settlers of these, then wild and desert regions, may easily be conceived not to have been either wealthy, or nobly born; indeed, we have positive evidence that they were of what are usually termed the lowest—I should say, the most unfortunate classes of society. The soldiers of the French army were oftentimes rewarded by grants of lands in Canada; the adventurous, idle, and desperate went out in search of golden fortunes there; and to these, for the purpose of

\* A parish thirty miles below Quebec, where the Quebec Seminary have a fine establishment for the reception of their scholars, *boarders*, during six weeks' vacation in the summer.

providing them worthy partners, the government dispatched a cargo of women. When, by the combined endeavours of these various persons, the country became somewhat populous and thriving, various families connected with the *noblesse* of France were induced to become settlers in these new territories, by large grants of land, and the donatives of various important privileges. Thus *noble* families were mingled with the Canadian population.

So long as the country was under the dominion of France, the *noblesse* formed the leading people of the country; they constituted the fashionable society in Quebec, and imitated, in the Château St. Louis\*, as far as their means permitted, the splendour and ceremony of the Court of Versailles. When the country was taken by the English, the greater part of the nobles departed: some, however, remained; and being well received by the English governors, and treated with distinction on account of their rank, they still shone, though with diminished splendour, amid the circles of Quebec. The forms of the age of Louis XIV. were in some degree preserved in this distant land, after they had disappeared from the country which gave them birth; and, under the fostering care of the government, protracted for a short period the date of their existence. Causes, however, were in operation, which eventually destroyed this lingering influence of the nobility.

The English introduced among the population a spirit of traffic; they taught them to appreciate the advantages of individual wealth, and to feel that a man might be of importance, even though not descended from a noble race. The English traders spread themselves over the country, bartered and trafficked with the inhabitants, introducing new articles of luxury, and creating a demand for the various productions of the country. The bourgeoisie, or *ignoble* inhabitants of the towns, caught the spirit,—laboured, and laboured successfully, to accumulate wealth for themselves;

\* So the Château, or Governor's house, at Quebec, is called.

and, being a frugal and a prudent race, they quickly found themselves possessed of fortunes more than sufficient to enable them to cope with the broken down *noblesse* around them. They, therefore, immediately began to compete with this fading generation, both in political and social life. The nobles themselves, preserving, in undiminished vigour, the absurd and baneful feelings universally engendered where aristocratic distinctions exist, looked with disdain upon the occupation of a merchant. To obtain their own livelihood, they considered a degradation: To live upon the labour of others, they deemed an honourable prerogative. In the present state of affairs, however, they possessed no power to wring from other men the means of splendour or subsistence; being idle, they consequently became wretchedly poor.

The old *noblesse*, unfortunately for themselves, neglected the education of their children; France was no longer before them as a model to be imitated, or a seminary for instruction. Their children could not well be sent to England, inasmuch as there no connections existed to forward them in life; and, moreover, the manners of that country bore little resemblance to their own. To the Canadian seminaries of instruction they paid little attention, supposing them incapable of conveying that species of knowledge which they desired; and they unwisely neglected to render them efficient. The children of these noble families were consequently brought up in idleness and ignorance.

The bourgeoisie, in the mean time, having themselves acquired riches, sought out for the means of imparting instruction to their children. Their own seminaries were alone within their power; and, not being diverted by higher aspirations, they contented themselves with improving that which they possessed. The rising generation received a fair and useful education, by the aid of the priesthood; and were thus enabled to surpass their noble competitors in knowledge\*, as their fathers had before surpassed them in wealth.

\* I shall hereafter speak of the education of the Canadians, and of the labours of the priesthood in that useful vocation.

The effects of this combination of circumstances became strikingly evident, the moment that political struggles had to be maintained. When the people thought it of importance to have efficient members in their House of Representatives, the men of action and education, *viz.* the bourgeoisie, were immediately selected; and the nobles passed from the stage at once, and for ever. Their titles are no longer known; and the whole people may now be considered as on one rank or level, in as far as regards titular distinctions. The descendants of the nobility are to be found confounded with the poorer classes of the inhabitants; and, their former ideas of grandeur having long since departed, they oftentimes may be seen serving in their little shops in the country, and gaining an honest livelihood in this humble avocation.

The spirit which took possession of the inhabitants of the towns soon spread into the most distant parts of the country. Different individuals, as they acquired wealth by commerce, purchased large landed property, and introduced among their countrymen ideas of greater luxury and enjoyment than they had originally entertained. The chief commerce, moreover, carried on by the Canadian people, was the commerce of the interior (that with England being chiefly in the hands of British people); they thus formed a link of immediate communication with the various portions of the country. The English merchants and others introduced new habits and new ideas from Europe; these were quickly acquired by that part of the Canadian population inhabiting the towns, and, trafficking with the English, were again transmitted, through this medium, to the country people. Added to this, was another powerful cause of the increased enlightenment of the whole country: the government, by calling the people politically into action, gave individuals an interest in persuading the people of the various districts of the truth or falsehood of certain propositions, respecting the different topics of political importance; this induced dis-

cussion, and discussion knowledge; and thus the general intelligence of the population was considerably advanced. Still, as must necessarily be the case where different degrees of wealth exist, different degrees of intelligence are to be found in the various classes of the people, though not to the same extent as in European countries.

By the laws of the country, the *tenure* of the land is of that sort termed *en fief* or *seigneurie*; that is, a lord, or *seigneur*, possesses a right to certain returns over a specific portion of territory, each portion, thus possessed, being termed a *seigneurie*. The returns consist, partly in personal service, partly in certain taxes upon production and interchange at the hands of the vassal; on the other side, the lord, or *seigneur*, is bound to perform certain acts for the convenience of his vassal\*: he must build mills, make roads, &c. The returns, on the part of the vassal, are usually moderate; and thus, at present, no very great distinction exists between the class of *seigneurs*, and that of vassals. Still, however, this is a distinction, destined in process of time to become more marked and important. Already there is a partial political influence exercised by the *seigneurs*—exercised it yet has indeed been entirely for the interests of the whole people: the time may come when they will prove a lauded aristocracy, exercising an overbearing and pernicious influence over the fortunes of their countrymen. In the present stage of society, nevertheless, all the highest degree of intelligence possessed by the people is to be found either among this class, or those sprung from the mercantile community, who, in fact, from their wealth, have been enabled, by purchase, to form the chief part of the *seigneurs* of the country. This division of the people into *seigneurs*, and *not* *seigneurs*, is, as far as regards future consequences, by far the

\* This, for another purpose, will be more fully explained hereafter. I am now considering the matter merely with reference to the *divisions* of the people.

most important division now existing among them. That division, however, which at present is most marked, is that of the people of the towns, and the people of the country; which last have a distinctive name, and are now universally termed, *par excellence*, LES HABITANTS. The manners of these two classes, though in the main and essential particulars greatly similar, still exhibit many and striking differences. The people of the towns, from their constant communications with the English and Americans, have lost many of the peculiarities still retained by the more simple people of the country: wealth has introduced into the cities European refinements and luxuries which, to our forefathers, were completely unknown; so that, if we are desirous of obtaining a true picture of *Canadian* manners and customs, we must penetrate into the country, and mingle with the artless and unsophisticated inhabitants still to be found there.

Of the various circumstances connected with the habits and manners of a people, the most important are, *first*, the degree of difficulty experienced by them in obtaining the means of subsistence; *secondly*, the proportions in which these means of subsistence are spread over the whole mass of the population; and, *thirdly*, the quantum of the means of comfort which the people at large deem requisite to their happiness. Where the obtaining of subsistence is not a matter of overwhelming or exceeding difficulty,—where the wealth of the country is spread in nearly even portions over the whole of the inhabitants, and where the standard of enjoyment is a high one, happiness must of necessity be the lot of that people. Such is the situation of my countrymen; and, from the experience which my travels in various parts of the globe have given me, I well know that their comfort and happiness, excepting, perhaps, in the United States of America, can find no equal; and that the unfortunate peasant of Europe, apparently degraded in mind and worn out in body, exhibits a picture of wretchedness, which, to the poorest *habitant* on the banks of the St.

Lawrence, would appear almost utterly inconceivable, and upon which his imagination could not dwell without surprise and disgust\*.

The people, with hardly an exception, are proprietors of land, and live by the produce of their own labour from their own property. By the law of the country, the property is equally divided among all the children, and from the small quantity of capital yet accumulated in individual hands, the divisions of land have become somewhat minute. Among the people of the United States there exists a roving disposition, that leads them, in multitudes, to make new settlements in the wild lands, and thus rapidly to spread civilization over the immense unreclaimed territories which they possess. This feeling exists not in Canada: the inhabitants, generally, are far from adventurous; they cling with pertinacity to the spot which gave them birth, and cultivate, with contentedness, the little piece of land which, in the division of the family property, has fallen to their share. One great reason for this sedentary disposition is their peculiar situation as regards religion. In Canada, as in all catholic countries, many of the people's enjoyments are connected with their religious ceremonies; the Sunday is to them their day of gaiety; there is then an assemblage of friends and relations; the parish church collects together all whom they know, with whom they have relations of business or pleasure; the

\* The settlers from Great Britain and Ireland, however, are fast teaching the Canadian people the degree of misery existing in other lands; the squalid appearance, the filth, and destitution of the shoals of miserable beings annually imported from the mother country, are beginning to be familiar in Canada. The constant exhibition of the disgusting spectacle has put the existence of this misery in other places out of doubt, though, thanks to our good fortune, it is still, and I hope will long be, unexperienced by my countrymen. A very ingenious, though somewhat wicked appellation, has been given by the Canadians to the poorest part of the emigrants; they call them *Bas de Soie*, from their not having, or never choosing to wear, any stockings. It is quite usual to hear: *Tiens, voilà une cargaison de Bas de Soie qui arrive*, when a great number of emigrants are seen on board of a ship coming into port.

young and old, men and women, clad in their best garments, riding their best horses, driving in their gayest *calèches*, meet there for purposes of business, love, and pleasure. The young *habitant*, decked out in his most splendid finery, makes his court to the maiden whom he has singled out as the object of his affections; the maiden, exhibiting in her adornment every colour of the rainbow, there hopes to meet *son chevalier*: the bold rider descants upon, and gives evidence of, the merits of his unrivalled pacer\*; and in winter the powers of the various horses are tried in sleigh or cariole racing; in short, Sunday is the grand fête, it forms the most pleasurable part of the *habitant's* life; rob them of their Sunday, you rob them of what, in their eyes, renders life most worthy of possession. Moreover, the people are a pious people, and set an extraordinary value upon the *rites* of their religion. Take them where they may be unable to participate in these observances, and you render them fearful and unhappy. The consequence of all these circumstances is, that the Canadian will never go out singly to settle in a wild territory; neither will he go where his own religious brethren are not.

A wise Government, under such circumstances, if they were desirous of having the country cleared and settled, would have been careful to provide means by which a church might have been within his reach, where a catholic congregation might have been immediately formed; lands would have been appropriated to *his* church, and a means of subsistence found for *his* pastor. Our Government has done no such thing; the English established church is alone provided for; its territories may be seen marked out in every map; it has, in contemplation, appropriated *one-tenth* of the whole land of the country; but that form of worship which would alone induce the Canadian population to emigrate is passed over and forgotten; the consequence has been, that few or no new settlements have been

\* The Canadians are peculiarly fond of *ambling* or *pacing* horses.

made by the French Canadians: the population, nevertheless, has gone on increasing; and, as no employment of capital is so productive as agriculture, the people, of necessity, have subdivided the lands already cleared. This subdivision has, hitherto, had no pernicious consequences, as regards the enjoyments of the inhabitants, they having as much land as their capital permits them to cultivate; and thus, for the most part, inferior soils have not been brought into high cultivation; the time, however, must come, if the population go on increasing, when, provided emigration does not take place, the means of subsistence will be obtained with great difficulty, and the situation of the people must gradually deteriorate. It is to be hoped that the Government will endeavour to keep off this evil day, by so regulating the distribution of the church lands, that the catholic settlers may have their religious wants easily satisfied.

The soils now in cultivation are, for the most part, highly fertile; and the Canadian farmer, with a few months' labour, and little skill, obtains all he finds necessary to his enjoyments. The winter breaks up about the 1st of May; the harvest is finished usually by the middle of October; and the ground is again, by the frost, rendered impenetrable by the beginning or middle of November. The winter thus extends from November to May, during which time, few agricultural employments can possibly continue, the snow usually covering the ground during the whole period. The farmer in the winter threshes his corn; if he is careful, cuts and carries his year's fire-wood, and his fences\*. The females of his family, during the same period, card and spin their wool, weave their cloth, knit their stockings, and make the moccasins, or shoes, for themselves, their husbands, and children: little labour, nevertheless, is carried on during the winter; the most part of the time being spent in the amusements of the country, which we shall hereafter describe.

\* The fences are almost universally made of split wood, arranged in various methods; dry stone walls are, nevertheless, sometimes to be found.

When the spring comes, there is a general rush of business : a few days, nay, often a few hours, changes the whole face of the country. The river, which was a white and even sheet of ice, covered with snow, suddenly breaks up, and assumes life and motion ; the snow, under which the whole earth lay buried, disappears as if by magic ; the tepid airs of summer succeed at once to the biting gales of their almost polar winter ; vegetation bursts abroad ; the summer birds at once make their appearance ; and the country is suddenly transformed from a polar to almost a tropical scene.

To the farmer of England, accustomed to the garden-like cultivation of his native country, Canadian farming appears slovenly and unskilful ; but this species of rough agriculture is founded, in some measure, upon correct principles. Up to a certain point, an increased outlay of labour, on a given portion of land, is repaid by a more than proportionate increase of production : beyond that point, however, the increase is proportionately less ; and, therefore, beyond that point it ought not to be outlaid, unless from any circumstances (such as an exceeding increase of population, for example) it is requisite to go to inferior soils. European farmers are apt to judge of agricultural profits by the number of bushels derived from the acre ; this, however, is an exceedingly fallacious criterion : the correct method is, to estimate the labour expended, and then estimate the produce of that labour ; and it will be found, as by experience I have learned, and could have discovered by reasoning, that a partial or less complete cultivation of a large number of acres, returns a much greater produce to the same labour than could be returned if the labour had been confined to a small number of acres. In the latter case, the farm would present a more thriving and striking appearance, and the crops of the farmer would *seem* more abundant ; his labour, however, would not be so well repaid. In Canada, the large quantity of land, in proportion to the number of the inhabitants, renders it unnecessary for the people to have

recourse, except in peculiar cases, to inferior soils; and in no cases is it necessary in the same degree as in England. The consequence then is, that the high cultivation which in England we are compelled to pursue, is in Canada not only unnecessary, but would actually prove injurious to the farmer. While saying this, let it not be thought that I am an enemy to agricultural improvements; to superior skill in applying such portions of labour as are requisite to call into action the first and most productive powers of the soil; I am desirous merely of combating an erroneous principle, and of pointing out the right criterion by which to judge of relative agricultural excellence. That English neatness should be further introduced into the habits of the Canadians is highly desirable; and that a higher degree of cultivation than at present exists should also be attempted, cannot be denied.

The agricultural implements are, for the most part, rude and ill-contrived; a good plough, or a good harrow, is a thing hardly to be found; the scientific rotation of crops is utterly unknown, and might be introduced, to the great benefit of the country. Unfortunately, the English who have endeavoured hitherto to instruct the people, have been, for the most part, a narrow-minded race. Introduced into a state of completely new circumstances, they have been unable to adapt their knowledge so as to suit those circumstances: they farmed in their own country merely after a habit or custom, and not according to a principle; to this habit or custom, they inflexibly adhere, without reference to the modifications rendered requisite by the difference of climate and social state, and the consequence has hitherto been an almost complete failure in all their endeavours. At first they have been all English—it was their custom; finding this not to answer, they (after the established manner of people of mere routine) have gone as far on the other side, and become all Canadian. Had they modified their former by their latter experience, using their own greater skill in the application of the power they had at

command, but determining the quantity of the labour to be employed, as well as the time of its application, by the circumstances of the country, they might have conferred immeasurable benefits upon the people. Let me take an example. The English and Scotch methods of ploughing are greatly superior to that of Canada; superior in this way—with the same physical power, and in the same time, a man, by the English method, will more completely turn over a larger portion of soil. It is unnecessary for me to point out *how* this is: the fact is indisputable. Now, were the English farmers to retain their own method of ploughing, with all its collateral adjuncts, but plough at the *time* and to the *extent* best suited to Canada, without reference to the English *time* and *extent*, they would of necessity have a great advantage over the Canadian farmer. So with all that portion of greater agricultural knowledge, dependent on their superior knowledge of physics and chemistry. Let them trace the observances or methods founded on such science, back to the principles, or science itself; they will then learn how those observances must be modified, on account of the altered state of physical circumstances; they will also learn *how* they can be modified; and may thus avoid following blindly, and to their own cost, the routine to which they have been accustomed; and may turn their superior intelligence to their own and the country's advantage.

In spite, however, of the unfavourable state of mind I have here mentioned, as existing among the greater portion of the British settlers\*, great improvements are daily taking place; and Mr. Gray (who seems by no means free from the prejudices of his class) says, “I remarked some farms on the *Rivière Ouella* and *du Sud*, that would not dis-

\* It may be well to mention that, of the settlers that come from the mother country, and more particularly of those from Ireland, the greater portion are in far greater ignorance of every thing than the inhabitants of Canada. The class of persons spoken of in the text, as possessing superior intelligence, must not be confounded with the common herd of settlers.

grace Norfolk or Northumberland\*." And thus, to the fertility of their soil they are gradually adding the skill of Europe; and by this means rendering the business of obtaining the means of subsistence even more light and easy than before.

The first occupation of the spring, or rather the end of the winter, with the Canadian farmer, is, the making of his sugar. The sap of the maple tree is possessed of a large quantity of saccharine matter; and when, by long boiling, it is reduced into a solid form, yields a sugar by no means unpalatable, even to an European taste. In the month of April the sun acquires great power during the day, though the nights are still excessively cold: the sap, which is kept down during the cold night, suddenly mounts, when the warm sun breaks out; an incision is then made in the tree, and a species of spigot inserted, for the purpose of conducting the sap, as it runs out, into troughs placed to receive it. This sap, thus obtained, is then boiled until the water is all evaporated, and nothing remains but the sugar: this sugar is famous throughout North America, and forms one of the peculiarities of the various countries included under that name. In an economical point of view, it is exceedingly doubtful, whether the people be wise in taking the trouble to procure it; the same labour might, I think, in the greater number of cases, be more profitably employed; and the means of purchasing West India sugar more easily obtained than can this famous maple sugar itself. The people of the country are passionately fond of it, however, and look upon it with the same sort of national feeling, as an Englishman does his beer, a Scotchman his scones, or a Mexican his pulque.

The remaining operations of the farmer are nearly the same as in England; inasmuch as, with the exception of maize, or Indian corn, the produce of the country is the same. The chief peculiarity of the situation of the Canadian is, that what

\* *Letters on Canada.*

he grows is rather for his own consumption than for the purposes of sale. Hitherto, for example, he has grown flax, for the purpose of making the greater portion of his linen ; his corn is for himself ; his cattle are fatted to be, for the most part, eaten in his own family ; in short, he nearly produces, at one time perhaps entirely produced, whatever he consumed. The introduction of English luxuries, however, has, in some degree, altered this ; tea, English broad cloths and calicoes, cutlery, &c., now form part of the Canadian's necessities ; though the degree in which he is dependent solely on himself is far greater than that of an English farmer. In his own household are made the soap and candles he consumes ; his shoes, or mocasins, are chiefly of his own or his wife's manufacture ; so also with the greater portion of his clothing. This peculiarity, by multiplying the variety of his employments, serves in some measure to increase his sagacity ; though the benefit is more than overbalanced by the loss of time necessarily attendant on this want of division of labour. Upon the whole, however, it may be safely asserted, that the means of subsistence are, by the Canadian, easily obtained ; his labour extends but through a part of the year ; and, during that period, it is neither painful nor excessive.

The comforts of the people, if compared with any other nation, are wonderfully great ; their food, from their French habits, consists, not of animal food to the same extent as that of the richer English, but is, nevertheless, nourishing and abundant. No griping penury here stints the meal of the labourer ; no wan and haggard countenances bear testimony to the want and wretchedness of the people. I may say, I believe, without exaggeration, that, throughout the whole Canadian population, no instance can be found of a family unprovided with the complete and comfortable means of subsistence ; the food, indeed, is oftentimes coarse, but always wholesome. From the length of the winter, it is found necessary to kill in the autumn such stock as is intended for the winter's food ; a great portion is immediately salted,—some part is frozen ; and thus, though during the early part

of the winter and the latter part of the summer, the population live on fresh food ; still, for a great portion of the year, their chief animal food is salted. With a little care, however, this might in a great measure be obviated.

The other portions of the food of the people might, with little trouble, be greatly improved ; cheese is almost unknown, though finer milk could not possibly be found ; the butter, with the exception of that of Kamouraska, is generally indifferent ; and the bread is far from being perfect. The absence of cheese, and the general indifference of the butter, arise chiefly from a want of knowledge ; the badness of the bread is, by a number of persons, attributed to the bad state of the mills, and that for want of competition. In my opinion it is not correct, for I believe that our mills, generally speaking, are in excellent condition ; and every one knows that, by the law of the country, the *habitant* has the power to oblige the *seigneur* to keep his mill in the best possible condition ; and if he, the *seigneur*, neglects to do so, the *habitant* is then at full liberty to go to the neighbouring mills, which circumstance establishes at once the competition necessarily required. It is a remarkable fact, however, that while the American (that is United States) flour is fine and white, that of Canada is rather coarse and dark, although, it is asserted, more nourishing. Some persons, as I said before, attribute this to the absence of competition in the business of grinding their corn ; but when I tell them, that the American wheat, ground in our mills, makes as fine flour as when ground in American mills, what will they say ? The seigneurs, it is true, apparently possess a monopoly in this matter : the vassal is obliged to have his corn ground at the mill of his seigneur ; the seigneur consequently (say some), is not particularly careful as to the quality of the flour he produces : they must be aware, however, that the vassal is alive to all his rights, as well as the seigneur, and that the least neglect on the part of the seigneur would be a sufficient pretext for him, the vassal, to leave his mill. However this may be, it is to be wished, that all the means of improving the staple of the people's food should be devised.

The priests could hardly find a more worthy and useful avocation, than instructing their congregations in a more skilful and wholesome method than that now practised, of fermenting, or, as it is technically called, *raising their bread*\*. Leaven is now generally used for this purpose; and the consequence is, that the bread, throughout the country, is universally sour. A more wholesome mode might easily be devised, which, while it required no more trouble and expense, would materially, and, in a most important degree, improve the comforts of the people.

These apparently trifling particulars, when investigated, will be found to have no mean influence on a people's happiness. Though these evil effects be not great in each particular case, yet they are constantly recurring; and thus, by their multitude, they more than compensate for their individual insignificance.

Notwithstanding these circumstances (which I mention in hopes of contributing to a reformation), the situation of the Canadians, as regards their food, is one of great comparative comfort. The gardens, which are almost entirely cultivated by the women, supply, in pulse and vegetables, a large portion of their aliment. Fish is easily procured, from the numerous rivers, in an abundance and size which, to an European sportsman, would appear so extravagant, that I shall attempt no description thereof.

Spirits, unfortunately, form a large proportion of the drink of the people; and here, again, the salutary instructions of a benevolent priesthood might be eminently useful. I do not mean that the priest should indulge in constant anathemas against rum, and whiskey, and gin: anathemas frighten people, and diminish even the poor pleasure derived

\* No country is better suited to the growing of hops than Canada; and the most wholesome and best-flavoured leavening matter can be made with ease from hops. Beer is made only in Quebec and Montreal; yeast, therefore, cannot be obtained by the population generally, but could be made, nevertheless, if hops were grown for the purpose.

from debauchery; but they do not cure the evil. In a climate of such intense heat and cold as that of Canada, there is, of necessity, a constant craving for some stimulant to be applied to the stomach: the stimulant within the reach of the people is spirits;—they therefore drink spirits. If some other kind, less pernicious, were given to them, they might, with a little persuasion, be made to adopt it; if malt liquor, for example, were introduced, the whole population might easily be induced to substitute it for spirits. In a country where corn is so cheap and hops might so easily be grown, beer might be made at an exceedingly low rate; and its cheapness would quickly lead the inhabitants to use it universally. More might be done, in a few years, to improve the morality and happiness of a people, by specific directions and advice of this description, than can be effected in centuries by vague declamations against vice, or rhetorical laudations of virtue. To lead any people, we must address ourselves intelligibly to their understandings; but a rude people can only understand particular precepts—precepts pointing out specific evils, and explaining the modes of obtaining specific benefits. The benefits also must be such as they can appreciate; they ought, for that reason, to be immediate. Now, the evil effects of ardent spirits are manifest to every man; more particularly are they so to any who has travelled in North America. The inhabitants know all the mischiefs derived from their use, but still they feel the necessity of a stimulant; and, however painful may be the consequence, they must use the only one generally afforded them: give them another, less powerful, but quite as effective, they will perceive and understand the benefits to be derived from it; and, understanding and agreeing with their instructor, they will quickly follow his precepts.

While the Canadians are thus universally well supplied with food, they are equally fortunate as to their clothing and their habitations. Till lately, the chief clothing of the population was wholly of their own manufacture; but the

cheapness of English goods has, in some degree, induced a partial use thereof. Canadian cloth is, however, still almost universally used; and the *gray capot* of the *habitant* is the characteristic costume of the country. This *capot* is a large coat reaching to the knee; and is bound round the waist by a sash; which sash is usually the gayest part of the Canadian's dress, exhibiting, usually, every possible bright colour within the power of the dyer. This, with a straw hat in summer, a *bonnet rouge* or a fur cap in winter, and a pair of mocasins made out of sole leather, complete the dress of the peasant. The women are clothed nearly after the fashion of a French peasant; a cap, in place of a bonnet, with a dark cloth or stuff petticoat, a jacket (*mantelet*) sometimes of a different colour, and mocasins, the same as those of the men, form their every-day dress. On the Sunday, they are gaily attired, chiefly after the English fashion, with only this difference: where the English wears one, the Canadian girl wears half a dozen colours. Here, as in the case of their food, no penury is manifest; an exceeding neatness in their persons, and cleanliness, that first requisite to comfort, mark the people to be above the influence of want; and to be in that state of ease which permits them to pay due attention to decency of external appearance.

Of the habitations of the people I have already spoken. It is impossible—perhaps it would also be unnecessary, to give a minute description of the sort of houses which the farming population generally inhabit; suffice it to say, that they are generally constructed of wood; though, as the farmer becomes rich, he almost invariably changes his wooden for a stone house. For the number of the inhabitants, they are usually large and commodious. In the summer, from being low, they are generally uncomfortably warm; and in winter, by the aid of a stove, they are rendered completely uninhabitable by an European. The excessive heat in which the Canadian lives, within doors, is sufficient to kill any one, not from his infancy accustomed to that

temperature. Without doors, however, the *habitant* bears with ease the piercing cold of the winter blasts,—

“Breasts the keen air, and carols as he goes;”

when any one, not a Canadian, would be compelled to take every possible precaution against its painful influence; and he passes, with impunity and without pain, from his house, in which the temperature is above ninety degrees of Fahrenheit, into the open air, oftentimes twenty-five or thirty degrees below zero.

The houses are seldom of more than the ground floor; they are constructed sometimes of planks, sometimes of solid trees, and are universally white-washed. They are generally surrounded by a scrambling sort of garden, in which there are quantities of fruit, vegetables, and flowers; but in which the beautiful neatness of an English garden will be sought for in vain. The fence is formed of coarse pieces of split wood; the walks are but tracks traced of necessity, and without much reference to order; and the whole, though it yields abundance and comfort, yet adds little to the beauty of the scene. It is almost entirely under the management of the women, who using, in place of a spade, a species of heavy hoe, called a *pioche*, may be seen labouring with laudable industry during the parching days of summer, each in the little plot of ground she designates her garden, careless of the burning influence of the sun, and ignorant that, in other countries, the toil she undergoes is deemed beyond the reach of female strength. In the United States of America, at least in the Northern and Eastern States, such a sight is never seen: there the women take little or no part in the out-door work of the farm; and seldom appear abroad without a sun bonnet, to shade their beauty from the scorching rays of the sun.

Although neatness, at least English neatness, is not to be found in the habitations of the Canadian peasantry, perfect cleanliness is every where apparent; and, added to this comfortable quality, an unstinted sufficiency of the

various articles of furniture required for a comfortable *ménage*. Beds in abundance; linen, and all the requisite culinary utensils: all that are really wanted are there. Again, here, as in the circumstance of food, a high degree of comfort and enjoyment exists; and though the means may, to a delicate European, appear somewhat rude, the grand end of happiness is completely obtained.

I mention the amusements of the people, not with any intention of venturing to give a description of them, but with a desire to point out the state of comparative comfort which those amusements evince.

Few of these are peculiarly characteristic, except those of the winter. I have already said that the winter is chiefly spent in pleasure; and that the greater part of the population, at that period, cease from serious labour. The chief pleasures of the inhabitants consist at this time of *carioling* and visiting each other. As the people live, for the most part, each on his own farm, the distance between neighbours becomes oftentimes too great for a pedestrian to go over with comfort; the snow lying on the ground for at least five months in the year, would also render walking unpleasant: a cariole, or light sleigh, is therefore universally used. Church-going, visiting, purchasing, in short every journey, whether of pleasure or business, is performed in the cariole. Every farmer possesses one, sometimes two or three; and the farm-horses, being exceedingly active and light, draw his winter carriage. The whole of this is evidence of great plenty and comfort:—the horses must be fed for many months, at no small cost; and might, if their masters desired, be profitably employed. The cessation from labour also, during the greater part of the period, is another proof of the easy circumstances of the people: not only is there a cessation from labour, but a constant round of parties, and dancing, of which the whole people are passionately fond. At these parties, abundance of good things is always manifest. The people assemble not merely to see one another, but with a serious intention of

enjoying themselves ; and to this enjoyment they wisely deem eating to be an absolutely necessary adjunct. Healthy and robust as they are, it may easily be presumed, that the *quantity* of the viands is an essential particular. Their eating, like their dancing, is no mock proceeding ; they dance with spirit, and they eat with vigour. Again, this is evidence of plenty.

At their weddings the same custom is prevalent ; a dance and a feasting always succeed this happy event ; and not only one dance and one feasting, but, most probably, a dozen. The whole bridal *cortège* in a long string of *calèches* if in summer, of *carioles* in winter, passing from house to house ; and each night, for, perhaps, a fortnight, renewing, with unabated vigour, both the eating and the dancing.

Thus passes the winter ; and with the summer labour returns. The out-door sports of the English have no parallel in Canada ; cricket, foot-ball, and the various gymnastic sports, are there unknown ; and the summer is almost entirely passed in labour. There is one exception, however, I am unwilling to pass over—this amusement has indeed immediate reference to gain, as it consists in *fishing*. The methods practised in the various parts of the country being somewhat peculiar, may, perhaps, be worth describing. In the spring, the fish usually run up into the thousand small creeks (in England they would be called rivers), which fall into the St. Lawrence ; these being oftentimes shallow, permit a man to wade across and along them ; one carries a bundle of dry pine or cedar bark splinters lighted, and used as a torch ; another follows with a barbed spear, having a handle eight or ten feet long, and, by aid of the torch-light, he is enabled to see the fish as they lie along the bottom of the stream ; which fish he cautiously approaches, and transfixes with his spear : when the water is too deep for him to wade, a canoe is procured ; a light iron grate is placed in the bow, and filled with dry pitchy pine splinters, which blaze vehemently, and cast a bright and ruddy glow through the water, to many yards distance. The fish, as

before, are by this means discovered lying at the bottom of the stream, and are caught in the same manner. Great dexterity is often evinced in the management of the spear; and I have often seen fish of four or five feet in length caught in this manner. In the calm evenings of summer, as the night comes gradually on, canoe after canoe, with its bright and waving light, may be seen putting silently from shore, and gliding rapidly and noiselessly along the still and glossy river; with one touch of the paddle the canoe is impelled to the spot pointed out by the gesture of the spearsman, who, waiting till the fish be within his range, darts his weapon with admirable precision upon the devoted prey, lifts it as quietly as possible into the canoe, and proceeds onward in search of further sport. The water of the St. Lawrence, clear beyond that of almost all the rivers I have seen, is admirably fitted for this purpose; and will allow a dexterous sportsman to seize his prey, if it be tolerably large, even when the water is ten or twelve feet in depth. There are few scenes in Canada more peculiar and striking than this night fishing. Often have I stood upon the banks of the broad and beautiful St. Lawrence, and contemplated with rapture the almost fairy picture it afforded. The still and mighty expanse of waters, spread out in glassy calmness before me, with its edges fringed by a dark mass of huge forests sweeping to the very brink of the river; and the deep *purple* shade of night closing over all, have, together, conjured up a scene that has held me for hours in contemplation. The song of the *voyageur* floating over the smooth and silent water, and mellowed by distance, has, in my imagination, equalled the long-lost strains of the Venetian gondolier; the glancing multitudes of waving lights, belying the homely purpose to which they were applied, have seemed a nocturnal festival; and, by the aid of a little romance in my own feelings, have not seldom cheated me into half poetical musings. The "garish eye of day," luckily, invariably dispelled the hallucination by robbing the scene of its enchanting but temporary beauty. I would,

however, recommend the traveller, in those distant regions, to view the scene in a calm night of June; and, I doubt not, but that in a short time he will discover himself more romantic than he deemed.

From what I have already stated, it is almost needless for me to say, that the situation of the people, such as I have described it, is not merely the situation of a part but of the whole. Wealth and comfort are not confined to a few individuals, but the whole mass of the population have almost an equal share in the good things of this world. The division of property, by law, has, of itself, rendered this almost necessary; the ease with which the means of subsistence are obtained, has also contributed to the same desirable state. Whatever may be believed to be the cause, the fact of the great approximation to equality in property is indisputable\*.

From the various circumstances I have mentioned, it will not be difficult to form something like a correct conception of the character of the people†.

Free from the pressure of want, and unexposed to the temptations created by surrounding affluence, they are free from the vices which poverty and temptation engender; property is perfectly safe, both from petty pilfering and open attacks. In the country, the doors of the houses are never fastened, and all sorts of property are openly and carelessly exposed. In the social relations, also, the same circumstance of ease induces, to a great degree, honesty in dealing. It is to be remarked, however, that, in a country like England, where great transactions are daily carried on, great faith is often absolutely required; this faith becomes extended to less important dealings, and a general feeling of honesty is introduced into the intercourse of the people. This species of reliance upon faith and honesty, thus gene-

\* "Ce fut le partage égal des terres qui rendit Rome capable de sortir d'abord de son abaissement; et cela se sentit bien, quand elle fut corrompue."

—MONTESQUIEU, *Grandeur et Décadence des Romains*.

† See Appendix, No. X.

rated, is not prevalent among the inhabitants of Canada ; the circumstances which gave birth to it not having yet arisen : on the other hand, they are completely free from the vice of over-reaching in mercantile transactions, so common among the people of the United States. In that country, unfortunately, they have only just reached that point of knowledge which tells them the necessity of care, circumspection, and constant watchfulness, in all transactions. They have learned, that, to save themselves from being over-reached, such care and doubt are requisite ; but they have not learned that, not to over-reach others, when we are able, is also a great (perhaps the greatest) assurance against being over-reached ourselves ; that general habits of honesty among a people are better safeguards than the most wakeful circumspection. The mercantile roguery of the Americans has, luckily, not hitherto been introduced among the Canadian population : they feel doubtful when trusting others, but they do not practise treachery when trusted. In as far as regards their dealings among one another, they are decidedly honest ; but, from the circumstances in which they have been placed, they have not hitherto become generous, confiding, and disinterested.

In the kindlier affections, they, like all happy people, are eminently conspicuous ; though, from being less rich, they are, perhaps, less remarkable in this particular than the people of the United States. Except in those portions overrun by the Irish and Scotch settlers, the traveller never meets with a refusal to give him assistance ; and, in all parts, the distress of a neighbour is promptly, and, I may say, generously relieved. No party feelings, no feelings of religion, no religious or political watch-words or signs, here break in upon the gentle tendencies of the people\*. The same intolerance of opposite sects is not to be found here as in Europe ; I have, myself, known the most perfect cor-

\* I speak here only of the country people: it will be seen hereafter, that, in the towns, such absence of bad feelings cannot be made a matter of gratulation.

diality to exist between the priest of the parish and his jewish neighbour ; and have heard a sentimental deist openly avow his unbelief before the same clergyman, discuss the propriety of his opinion, and be on the most perfect terms of intimacy and good feeling. This tolerance has hitherto led to no evil results, the people being one of the most pious and decorous to be found on the face of the globe ; their piety at the same time being free from austerity and bigotry, and their decorum from hypocrisy.

A bold spirit of independence, moreover, reigns throughout the conduct of the whole population ; happily, they are yet undebased by the dominion of a rich oligarchy ; they live not in fear of any man's power or influence ; upon themselves only—on their own industry, do they depend for subsistence ; and thus they have not, hitherto, learned to make distinctions between the welfare of the poor and the rich ; to bow down with abject servility before the powerful, and in their turn to exact a wretched prostration from those still weaker than themselves : courteous in their manners, polite in their address, they offend not by rude and rough familiarity, or indifference to the comfort of others ; neither do they forget their own dignity, even though they be poor ; they cringe not, they fawn not, nor are they, like slaves, cruel and oppressive ; they preserve an even simplicity and honest straightforwardness of manner ; alike free from servility on the one hand and bluntness on the other. In this circumstance again they differ widely from the people of the United States. The Americans, from a desire to mark their independence, their freedom from all the pernicious restraints of European despotisms, too often forget the common courtesies of life. To insult a man they sometimes consider an effective method of informing him that they are free from his control ; just as by cheating him, they believe that they save themselves from being over-reached. The Canadian, on the contrary, while acting with independence, is polite ; while guarding himself from becoming a dupe, is honest.

It may be said, and perhaps with truth, that the Canadian

population are, for the most part, superstitious ; but this is a failing common to all uneducated persons ; and we can hardly consider it a vice, unless it lead to cruel conduct towards one another. We, however, have no ducking of poor old women ; no desire to burn witches, &c. ; superstition, with us, merely multiplies the prayers of the fearful peasant, and occasions a somewhat lavish use of holy water and candles. It may, in England, be asked, how, in a catholic country, wherein a perfect freedom is allowed to the catholic priesthood to inculcate every doctrine which they are able to inculcate, a complete subjection of the people has not taken place, and a grovelling superstition and furious bigotry introduced ? The answer is easy : the catholic religion is not a state religion ; its priesthood are armed with no temporal power ; they use only the influence of the understanding ; are merely the advisers, not the rulers of their flocks. The existence of many religions, moreover, all equally under the protection of the law ; the multiplication of doctrines consequent on this state of things, and the mutual watchfulness over each other's conduct also resulting from it ; all introduce a general toleration and mildness among the various priesthoods of the various religions. The catholic religion is, in Canada, no more the instrument of the people's degradation, than is the quaker religion in Pennsylvania : but change the situation of each, erect them into state religions, and both would be equally noxious. In the present situation of the nation, however, the catholic priesthood of Canada exhibit a spectacle that others would do well to imitate ; they are laborious in their duties ; frugal in their living ; decorous in their manners ; possessed of much intelligence, and some learning, they are gentle, modest, and benevolent. Of their endeavours in the cause of education I shall speak hereafter ; here I only allude to their influence over the people's welfare in their immediate vocation ; in which, I have no doubt, they do as much good as any other priesthood.

I suppose, when speaking of the manners and morals of the people, it is necessary to say something on the subject

of continence. In this respect, however, the Canadian population, though perfectly free from any liability to imputation, are yet deserving of no very great praise; the reason being, they are unexposed to temptation. Happily for themselves they have not yet arrived at that state, in which, for a poor man to bring a family into the world is highly improper, and ought to be considered as a crime. They marry young; are subjected to no restraint; and can therefore exercise no virtue. Let them be contented with their happy lot, and envy not the fame derived from martyrdom in flames, which, though they burn not, nor lacerate the outward form, yet too fearfully torture the spirit, and inwardly consume and weigh down the body.

Crimes of the more atrocious description are almost unknown among us; murder, arson, as well as attacks generally on the person, are seldom heard of. The people are, for the most part, of a mild disposition; a broil or fight at their meetings of pleasure seldom occurs: and the more fierce and deadly passions of our nature are never roused by the pressure of famine. The habit of settling differences by personal collision does not exist among them: the law affords the only remedy which they willingly adopt; and they consequently seem, and are, in fact, litigious\*. The petty mischiefs arising from this spirit, however, are more than compensated by the absence of all those dreadful scenes which are exhibited in countries where the law is a luxury only for the rich; and where the poor man, if he wishes redress for an injury or insult, must seek it by an attack upon the person of

\* The Canadians, being principally of Norman origin, what William the Conqueror said of the Normans may, perhaps, be applicable to them.

*"Foler et plaisir lors convient."*

*Ils aiment à faire des folies et à plaider.*

But it appears to me that the modern description of the Norman character is still more applicable to the Canadians:—"Il y a dans toute cette race Normande, un grand aplomb, une faculté de compréhension très-étendue, et ce qui est fort remarquable, à la fois beaucoup de chaleur dans la discussion des intérêts privés, et de calme dans celle des intérêts publics."

the offender. In France, since the revolution, the practice of duelling seems to have spread through the whole population. The military spirit generated by the wars attendant on that mighty regeneration, however, was never breathed into the French Canadians ; and the English practice of *boxing* has not, hitherto, become a favourite diversion. The comparative cheapness of law, moreover, gives an immediate outlet to the angry passions : the slow and deadly revenge of the Indian was therefore never adopted ; and thus, in spite of being derived from the French, governed by the English, and living with the Indians, the people are free from the private pugnacity of all of them : this, added to the absence of want, accounts for the almost perfect absence of all the more dreadful crimes known in other lands.

When speaking of the education of the people, I shall have to estimate the degree of knowledge possessed by them ; I may here, nevertheless, allude to their intellectual character generally. To those persons who know the English character, who understand the spirit of *fun* which reigns throughout the whole land, the sedateness, and almost mock gravity of the American native must be a matter of surprise. The American has not a particle of *fun* in his whole composition ; if he jokes, it is the saddest thing in nature ; if he attempts to be witty, it is by the aid of Joe Miller : he labours in a vocation to which he is unaccustomed, and for which he is by no means fitted. There is something of this sort of discrepancy between the character of the French and the Canadians\*. A more good-humoured people than the latter can hardly be found ; but the sparkling vivacity, the vehemence of temper, the tiger-like passion, and brilliant fiery wit of a Frenchman, are not to be found among them. They are sedate, nay, almost grave ; have their temper under

\* I speak here merely of the people : the educated classes of all nations, of necessity approximate to each other. There is a greater difference between an English peasant and an English gentleman, than between the latter and an educated Parisian.

control; and still, without the gay vivacity of the French, are free also from the fierceness of their passions. They are, by this means, a happier people, though, perhaps, less attractive. Though shrewd, perhaps I might say cunning, they exhibit not the same quickness of intellect which the French peasant is possessed of; they seize not with rapidity a new idea; have little *tact* in the management of men to their purposes, not perceiving the means of winning their way by the aid of other men's weaknesses, and moulding to their will the peculiar character and temper of each. Few nations possess this sort of power in the same extent as the Irish, and in this point the Irish and French assimilate; but the Canadian is as incapable in this particular as an Englishman or a Scotchman. It would be a curious point of investigation, to search after the circumstances which, in the cases of both English and French colonists, have led to these differences of character.

I shall here close my observations on the French population, and take up the less pleasant part of my task, *viz.* the description of that portion of the people I have spoken of under the denomination of English.

Of such English as are scattered over the country, it is unnecessary to speak, they being few in number and unimportant in their influence. That portion of Lower Canada called the Townships, is settled indeed by persons of British extraction, but hitherto these persons have taken little part in the politics of the country, and have formed no specific class which would require any description; their interests, moreover, are identical with those of the French Canadians, and when they are called into political existence, they will be found, I have no doubt, much more stubborn and untractable than the Canadians. In the towns, however, the matter is widely different; there the persons who call themselves English form a distinct and powerful class; they hold the chief offices of the state; possess what are there considered large incomes; make, consequently, a great dis-

play; and set the fashion, and give the reigning tone to society; these are the people of whom I am now to speak:—

They consist of two divisions, civil and military; the civil invariably directing the feelings and the conduct of the whole. When the military first come among us, they find certain persons high in office, to whom they deem it wise to pay their court; these persons are either members of the Executive Council, or some immediately under their control or influence; these, then, have the leanings and affections of the Executive Council. Whatever these leanings and affections may be, they are immediately assumed and caricatured by the officers of the army, who, desiring to please the men in power, seek their favour by treating with contempt, and sometimes with rudeness, all who have incurred their displeasure. It becomes necessary for us, therefore, to learn the feelings of this ruling class.

If the reader will call to recollection the political conduct of the Executive Council, he will find little difficulty in discovering the persons against whom their ill-feelings are directed. The whole *Canadian* population constitute the objects of their hatred, and that portion whom chance brings into the towns are subjected to their special contempt and ill-treatment. A perfect oligarchical spirit has thus taken possession of the English inhabitants; they unite and form a separate society; deride and scoff at every thing without their own mysterious circle; set at defiance every rule of common courtesy with all not within its hallowed boundary; serve, by their ill-timed insolence, to weaken the English influence in the country; and will, finally, if they persist in the same plan, for ever alienate the affections of the people. To enable the reader to judge of their proceedings, it will be requisite to look more minutely into the composition of this exclusive circle.

It consisteth, for the most part, of dependents on aristocratic families in England; these dependents are either actually members of the families, or persons who have made

themselves serviceable in some of the various methods which society offers to that end. Unfortunately, I think I may venture to say, it never has been a quality of the English aristocracy to treat with becoming courtesy those classes of society who are immediately under them in rank. To the abjectly poor and insignificant they are condescendingly kind; but to the rich and industrious citizen, who rivals them in wealth and splendour, and power, and to all who are of his class, though inferior, they are, as far as I have been able to judge, insufferably supercilious. Some, although very few, young scions of this stock are imported to Canada, with the feelings of their race, fresh and unchecked by worldly experience; they find there a class who are political rivals—a class unadorned by rank or title—plain, homely, industrious citizens; intelligent indeed, but untutored in the ways of fashionable life, without the manners or polish of English aristocratic society. Upon these men they are studious to pour the vials of their supreme contempt. Aping these gentle offshoots of a gentle race, comes the vulgar dependant—vulgar in spirit, in manners, and in intellect; suddenly mounted into importance, blessed with unexpected power, he longs for outward and flattering proof of his new dignity: what proof so strong, so flattering, as unpunished insolence to those around him? But wise is he in his generation. The higher powers he dares not trench upon; for the stripling of some aristocratic house he has a species of ingrained veneration; from the poor, the weak, and the distressed, he shrinks, as from contamination; upon these, therefore, he visits the first exercise of his dignity, His aristocratic co-partner in power is equally contemptuous, perhaps equally heartless, equally alive to sinister interests; but, nevertheless, he is somewhat less coarse and brutal in his behaviour. *He* has, during some part of his life, associated with gentlemen; a dash of courteousness will, at times, pervade his behaviour; sometimes he will feel that respect is due, even where wealth and power exist not; but, with the low menial, raised suddenly to distinction, all is equally

vile; he never, even by accident, betrays one generous emotion; constantly alive to his original insignificance, he strives to banish the recollection, by continually calling to his mind his present altered situation; he finds no readier, no more pleasing mode than by continual insult of others. Though many individuals sit for this portrait, I cannot, for reasons evident to every one, venture upon a specification: they who know the society will, from experience, perceive the truth of the picture; they who know it not may, by a little reflection, learn that, of necessity, it must be correct. Let them consider who are the persons dispatched to govern in the various departments of our colonies—let them consider the state of Canadian politics which I have described, and which every one allows—and then let them ask themselves if this social war is any other than a necessary consequence of such an unfortunate assemblage of circumstances.

As this state of affairs continues, the spirit which I am here depicting is hourly increasing; not only are the Canadian population the objects of this contempt, but so also is every one, even though English, if not immediately connected with the powers that be. The members of the Government, the officers of the army, and two or three fortunate merchants, are now almost the only inhabitants of this empyrean region. The feelings that originated in political disputes are now supported and extended by mere aristocratic jealousy; and as this regards not so much political as social distinctions—distinctions in wealth, employment, and connection—the system of exclusion is extended to the honest and industrious English as well as French. If the consequences of such divisions in society were merely separations in their private relations, little serious mischief would arise therefrom; but the evil stops not here: the business of Government is carried on in the same spirit; the most insignificant Government official practises the same airs, and is as insolent and overbearing as his superior. All the transactions, therefore, which of necessity are carried between the Government and the different members of the

community at large, are a constant source of vexation; the people are offended; their representatives resent the ill-treatment, and look with no spirit of goodwill upon those entrusted with command. Jealousies, heart-burnings, and vexatious contradictions result on all sides, and the two classes of the city population bitterly hate and abuse each other\*.

\* For the purpose of exhibiting a specimen of the conduct of certain portions of the English society in Quebec, I will relate a few anecdotes; and describe the serious consequences of one of them, as regarded the society at large:—

A young Canadian surgeon, on his return from New York, where he had taken his degree of M.D., had occasion to make application to one of the government offices. He was received very cavalierly, as is nearly always the custom; and, having remarked upon this conduct, he was grievously insulted. The young gentleman, not perceiving in his own conduct any thing that deserved such treatment, determined to take the only reparation in his power. At a public auction, where a large number of persons were assembled, he met the individual who had insulted him; without further ceremony, he administered a sufficient dose of chastisement, with the assistance of a small cane bought for that purpose. The person thus flogged was in a paroxysm of rage, and attempted to defend himself: before he had time, however, the bystanders interfered, and separated the combatants; and the scene terminated, as is usual in such cases, by the spectators having a hearty laugh at the expense of the poor devil who received the chastisement. The affair made considerable noise; and our young Esculapius expected a message from the gentleman thus publicly whipped. No such result, however, was the consequence; and still the person who had been so unceremoniously assailed enjoyed the consideration of his society; every effort was taken to redouble all the usual attentions, and every possible means adopted to mark that, in the opinion of his class, his honour had received no injury; he continued, and still continues, I believe, to hold several important situations under Government, being even created a Member of the Executive Council; and the young surgeon received no injury but the loss of his cane, broken over the shoulders of his honourable opponent. He was, however, exposed, in appearance, to the contempt of the *haut ton*!

This is one side of the picture; now I beg the reader to contemplate another. A respectable Canadian, a married man, having a family, was insulted, without the slightest provocation, by a young ensign, who had just reeled out of his mess-room, in a state of intoxication. This insult, raising the Canadian's ire, subjected the officer to certain expressions, richly deserved by his insolence. The next morning brought a challenge from the hot-headed youth, which challenge the gentleman, after the advice of his

The English society thus forming a public opinion of their own, it may easily be supposed, that the sanction of that public is not always directed against conduct which, though highly immoral, affects not their own peculiar

friends, very properly refused. The consequence was, that all the *fashionable* persons looked upon him with an unfavourable eye, and would eventually have considerably injured his reputation, even among his compatriots, had he not called together a public assembly, where he explained the whole circumstances, and fully justified himself in the eyes of every one. It was well known, besides, that, in former cases, he had conducted himself as a man of courage and correct principle. With his compatriots, therefore, he was completely justified. In the opinion of the English society, however, matters wore a different aspect; and, although the Governor, Sir John C. Sherbrooke, was marked in his attentions to the Canadian gentleman who had been insulted, a complete division took place. This disagreeable quarrel took place a little before the meeting of the Quebec dancing assemblies, of which the Canadian had been previously named (and, after his general call of the citizens, renamed) a manager; the consequence was, that the assemblies were broken up, and the English separated from the French society; and each lived, and I understand are still living, so completely divided from the other, as almost to give the appearance rather of two hostile nations, than of two portions of the same people.

As a specimen of manners, I quote the following anecdote, from a private journal lying before me:—

“Ayant eu occasion de faire quelque application au Gouverneur-en-Chef, en 1826, par la voie de son secrétaire militaire (*military secretary*), et ayant cru que je pouvais m'expliquer plus particulièrement avec le dit secrétaire si je lui étais introduit, je demandai à un de mes amis (un des premiers officiers civils, dans la colonie) de vouloir bien avoir cette bonté, ce à quoi il consentit avec sa politesse ordinaire; mais quelle fut ma surprise en paraissant devant ce grand personnage (c'était un homme de plus de six pieds de haut) d'être reçu, comme on dit en Canada, 'comme un chien dans un jeu de quille!' Comme il s'agissait simplement de faire parvenir certains papiers et documents à son Excellence, la visite ne fut pas bien longue, lui donnant à entendre que je n'étais pas venu pour demander aucune faveur, ni pour me soumettre à sa mercuriale, mais seulement pour le prier de transmettre au Gouverneur, qui était alors à Halifax, certains documents sur lesquels je désirais avoir sa réponse. Il se chargea d'une manière brusque et réticente de mes papiers, et promit, malgré cela, de les lui faire parvenir. Je quittai l'office de ce nouveau Caire, en remerciant mon ami pour le trouble qu'il s'était donné, et qui ne fut pas moins surpris que moi de la réception gracieuse que nous avions eu, et je retournai à mon hôtel, bien convaincu qu'une telle conduite de la part du secrétaire militaire, ou de tout autre officier public, devait affecter le caractère et la popularité du Gouverneur-en-Chef, dans bien des cas le prévenir contre

interests. Want of courtesy is not looked upon as improper when the object of insult is a Canadian; and even in transactions depending on the common principles of honesty, their example and influence are pernicious in their effects. To be in debt, and refuse to pay the money owed, is highly fashionable. Men in the most respectable and lucrative offices are deeply involved, and allow actions to be brought against themselves without shame or scruple; and that too for the most trifling sums, putting off the actions from term to term by every possible evasion the law allows; and never satisfying the creditor till judgment and execution absolutely compels them. Men who have salaries of £.1000, or £.1200 a year (which, in fact, is more than £.2000 in England), will laugh at, and amuse themselves with the idea of having an execution in their houses for the paltry sum of ten or twelve pounds; and yet, should you doubt of their respectability, it is high treason against the State. Amongst a multitude of cases which might be cited, I remember one which sets off to great advantage the existing morality respecting money transactions. Capt. A. and Mr. B., considered among the most fashionable and distinguished personages in Quebec, lived together, and were both deeply in debt. When an execution came against Capt. A.'s goods, Mr. B. was always ready to claim the property in the house as his; and when an execution came against Mr. B., Capt. A. was equally ready to lay claim to the same identical furniture: and, yet during the whole of this dishonest proceeding, they were received, *and received with distinction*, by every great person in the town. Judges, the high functionaries of

les gens qui ne sont pas toujours d'humeur à se faire traiter de la sorte sans quelque cause, et lui faire commettre de grandes injustices, ce qui fut clairement démontré par le résultat de mon application."

Here we have the feelings of the individual expressed without much care; as they rose in his mind, so they are put down; and the cause of his discontent is unequivocally stated to be the *manner* of this public functionary. This manner is not described; in fact it could not be so. The look, the tone, the gesture of insult and contempt, cannot be expressed in words, although, in fact, they are bitterly effective.

the Church and of the Government associated with them, expressing, and probably feeling, no scruples at so doing. The following colloquy at length occurred, and the results effectually put an end to this extraordinary proceeding.

SHERIFF'S OFFICER.—Captain A., I have an execution against you, and come for the purpose of levying upon it.

Capt. A. (*calling up the stairs.*)—I say, B., here is a fellow come to seize my goods; just come down and tell him these goods are not mine.

Mr. B. (*having descended the stairs, and addressing the Officer.*)—Fellow, these goods are mine; and I order you out of my house immediately.

SHERIFF'S OFFICER.—Well then, Sir, if they *are* your goods, I'll just take them on account of an execution I have against you.—The consequences may be imagined.

These things, though they assume a ludicrous appearance, are, in reality, serious matters; they mark a state of feeling in the highest degree injurious to the people, both as regards their property and their morality. Habits are created amongst the richer classes, by the force of example, destructive of every virtuous principle. Idleness, carelessness respecting the sanctity of engagements, contempt of honest and laborious avocations, desire of show and of expense, and recklessness as to the means of gratifying that desire; in short, all the mass of evil which overgrown power and wealth have created in England, are transplanted into our poor and hitherto frugal community; and we thus possess all the foul deformity of the mischief, without those elegancies which here, in some degree, prove a species of mitigation for it.

What, it may be asked, can be done to remedy the mischief? Is it not inherent in every state of society, and by no means confined to that corner of the earth called Canada? My answer is, that the evils I have stated are not inherent in the nature of things, and that the remedy is easy. Whether it be so, or not, however, is not here the question; my intention was, to describe the state of society; and that intention, I hope, I have honestly carried into execution: what I saw,

I have described ; and the description I have given, few will be found to contradict. Some may consider the facts stated, not to be mischievous ; and thus may deem, that no reformation is required : with these I have no concern. To those, indeed, who believe that a divided people must be an unhappy people ; who consider that internal discord is a fruitful source of misery and crime, the subject of the remedy must be an interesting topic. The evil, I think, has been shown to grow out of political causes ; to arise from imperfections in the frame of the government : That which remedies the government, therefore, will affect these results. But the alterations of the government which I intend to propose, will be explained in a separate chapter. To this chapter I refer the reader who feels an interest on the subject ; merely observing, that one of the great benefits I hoped to be derived from the proposed reform, is the important change that will necessarily follow in the manners and frame of the whole society.

## CHAPTER V.

### *State of Education.*

EDUCATION, among the people of Lower Canada, and particularly in the country, having made but little progress, as compared with that of the people of the United States, the Roman Catholic clergy have been considered the cause of this want of advance, and accused of a desire to keep the people in ignorance, inasmuch as they hope thereby to maintain a command over their opinions and their conduct. Nothing, however, can be more false, either as regards the cause of the little progress of education among us, or as regards the feelings of the priesthood; it being indubitable, that had it not been for the arduous endeavours of the Roman Catholic clergy, the people would, of necessity, have been far more ignorant than at present. To their active personal exertions, to the seminaries which they have built and superintended, is owing whatever knowledge is spread among the various ranks of Canadian society.

The Jesuits, careful to possess themselves of property in every quarter of the globe, obtained considerable estates in Lower Canada; (at the time of the conquest, their landed domains consisted of about one million of acres;) and built in Quebecan immense college, or seminary of instruction for the Canadian youth. But as, in 1764, the Order was suppressed, the seminary of Quebec, originally destined merely

to the education of the young priesthood in theology, was directed by the clergy to the general education of the people, who, by the extinction of the Jesuits, were utterly deprived of all means of instruction.

By virtue of the conquest, and also of a cession made by the King of France to the King of England, in the definitive treaty concluded at Paris, the 20th of February, 1763, all the property, movable and immovable, situated in Canada, and belonging to the Order of the Jesuits, devolved to the crown of England. It pleased the King, however, to permit the surviving members of that Order, resident in Canada, to occupy certain portions of their former property, and to receive certain rents and profits resulting from it, for the term of their own lives. The last of this order, the Rev. Joseph Cazot, priest, dying in the year 1800, the Sheriff of Quebec, in virtue of a writ directed to him, seized, on the part of His Majesty, all the property, &c., belonging to the deceased Rev. Joseph Cazot, as the representative of the late Order of the Jesuits; and since that period, the revenues, which, according to Governor Milnes, amounted, in the year 1801, without estimating the property situate in the cities of Quebec and Montreal, to the sum of £1245. 5s. 4d. per annum, have been at the disposal of the Government. The reader ought to recollect that these revenues were originally destined to the purposes of education; and that it has been proved, incontestibly, that the colleges and seminaries belonging to the Jesuits in France, continued, after their suppression, to be employed to the same end; and the property belonging to those colleges was also directed to the same important purposes\*. In Canada, however, and under the British government, such has not been the destination of their property. Their immense college, which, as an English writer † acknowledges, "in its dimensions would bear a comparison with

\* See *Rapport du Comité Spécial de la Chambre d'Assemblée du Bas-Canada, nommé pour s'enquérir de l'état actuel de l'éducation dans la Province du Bas-Canada.* 1824.

† *Westminster Review*, page 15, July 1827.

almost any edifice in England, dedicated to the purposes of instruction," has been turned into a barrack. And of their revenues, which have doubtless been wisely employed, though their particular destination has never yet been discovered, not one farthing has been directed to the education of the people. With this mode of proceeding the people, however, were not well satisfied; and, according to the Report quoted above, a petition was presented to the King, in April 1793, respecting the application of the Jesuits' property; and the propriety of again employing it in the education of youth. To this petition an answer was not returned till the year 1800.

On the 12th of March, 1800, a motion was made in the House of Assembly, "That the House do form itself into a Committee, to take into consideration the means of inquiring into the rights and pretensions of the Provinces over the College of Quebec, and the property thereto belonging."

On the 15th of the same month, an address was voted to His Excellency the Lieutenant-Governor of the province, praying him to command the proper officers to transmit to the House copies of certain titles and documents, and official reports, relative to the property lately possessed in this province, by the religious Order of Jesuits.

To this address the Governor returned the following answer:—

"GENTLEMEN,

"I find it necessary to inform you, on the subject of the present address, that all the proceedings in virtue of the commission issued on the 29th of December, 1787, with all the demands and pretensions touching the property possessed by the late religious Order of Jesuits in this province, as well as the humble address of the House of Assembly, of the 11th of April, 1793, have been respectively transmitted to the King. That His Most Gracious Majesty has been pleased to submit all these proceedings to his Privy Council; the result of whose determinations, and the order of His Majesty thereupon, have been transmitted to this Govern-

ment in last April ; and, in consequence of this order, commissions have been issued to take into possession the whole of this property, on the part of the Crown.

“ If, after having reflected on these circumstances, the House of Assembly thinks proper to persist in the search which it has proposed to itself, I will assent to its demands, by permitting to its members free access to all the papers which have already been published ; and, in this case, I will give orders that all persons duly authorised by the Assembly, may be admitted to take copies of all titles, documents, reports, papers, and of all proceedings which have taken place in consequence of the commission above mentioned, and which were deposited in the registry of the Council, on or before the 25th of August, 1790.

“ But, after the information I have just given, the House will certainly believe it according to its duty to consider if it can, compatibly with the respect it has invariably manifested towards its Sovereign, renew any demands on this subject\*.”

The House has certainly been *wanting in respect* on various occasions since that period, if renewing its demands in the most submissive and respectful terms deserves so to be considered. These applications have hitherto been without success, though the House has always acknowledged *the right* on the part of the crown, to take possession of the property ; the only question being, whether it were in accordance with the perfect wisdom and justice of the Imperial Government, to divert the proceeds of that property from its original purpose—a purpose, beyond all others, the most important and pressing.

The reader has now before him a description of the conduct both of the Executive and the Roman Catholic clergy, as regards the education of the people, up to this period : the one party suppressed an immense and well-organized institution, dedicated to the business of instruction, and

\* Report of the above-mentioned Committee, p. 29.

appropriated to itself the revenues set apart for the maintenance of that institution : the other party, seeing the people thus deprived of the means of education, immediately stepped forward ; converted their own seminary into an establishment for general education ; founded, and have maintained, in spite of all opposition, many other seminaries throughout the province, for the same useful purpose. Up to this point of time, which of these two parties, I now ask, has been the most efficient instrument in keeping the people in ignorance ? Whether are we to account for the superior intelligence of the people of the United States, by the difference in the conduct of their religious instructors, or by the difference in the conduct of their government ? The reader must answer this question for himself.

A proposition was made, by the House of Assembly, to establish elementary schools, in every parish throughout the province. These schools were to be under the management of the people of the separate parishes, and the curés ; much after the manner now practised in Scotland and the United States.

The following benefits were supposed likely to accrue from this institution :—

1. The people would have, at their very doors, a cheap education.
2. The schools being under the control of the parents of the children to be educated, the education given would be such as the parents desired, and the children needed.
3. Inasmuch as the schoolmasters would have been under the command of the united parents, they would, of necessity, have been industrious and circumspect in their conduct generally.
4. Inasmuch as they were to be chosen by the parents, there was every probability that they would have possessed the requisite qualities for teaching Canadian children.
5. The same control of the parents would have given the parents confidence to trust their children to the care of the teachers.

To this plan the Roman Catholic clergy were warm

friends: the Government, however, opposed the plan; and in place of it, established a *Royal Institution*; the leading features of which were, that the teachers should be chosen by the Government, and should be under the control of the Government. The institution was formed in 1816, and a number of persons appointed to direct the formation of the elementary schools. The list which I give below will show in how much the feelings of the catholic population were a matter of consideration\*.

From a paper which I give in the Appendix†, the following account of the schools of the Royal Institution is extracted, which, compared with an account, taken from the same paper, of the other schools in the country, will show the effect, in numbers, produced by the Government plan:—

|                                                     |         |        |
|-----------------------------------------------------|---------|--------|
| The grand Total of Persons educated in the Province | - -     | 11,679 |
| Of these the Government Schools educate             | - - - - | 2,298  |

|                                    |       |
|------------------------------------|-------|
| Not educated by Government Schools | 9,381 |
|------------------------------------|-------|

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\* List of the Syndics of the Royal Institution:—

The Lieutenant-Governor of Upper Canada, for the time being.

Sir T. M. Barton, Lieutenant-Governor of Lower Canada.

Bishop of Quebec (Principal).

Chief Justice of Lower Canada.

Chief Justice of Montreal.

Chief Justice of Upper Canada.

Speaker of the Legislative Council of Lower Canada.

Speaker of the House of Assembly.

The Rev. G. J. Mountain, Archdeacon of Quebec.

The Hon. and Rev. J. Strachan, D. T.

The Hon. and Rev. Charles Stewart, D. T.

The Hon. J. Caldwell.

The Hon. H. W. Ryland.

The Hon. L. de Salaberry.

The Hon. A. L. J. Duchesnay.

J. Stewart, Esq.

J. T. Tachereau, Esq.

A. W. Cochrane, Esq.

Of these eighteen Members, four are Catholics; and, besides, the Speaker of the House may also be a Protestant.

† See No. XI.

making about one-fifth of the whole educated by the Government Schools.

The reasons for the failure are as follows :—

1. The masters, being chosen by the Executive, are usually exceedingly inefficient ; the causes of their inefficiency are manifest. In the first place, as the persons choosing them have no very great interest in the matter, the qualifications of the teachers are seldom minutely inquired into ; inquiry is trouble, and trouble is a thing people will not take, unless some immediate motive be brought to bear upon them. What immediate motive can be supposed to bear upon the persons mentioned in the note, equal to the desire for rest and relaxation which must necessarily possess them, seeing the extent and variety of duties they have otherwise to perform. Besides, without any wish to find fault, I must be permitted to say, that the situation of schoolmaster, being a desirable one for persons of a certain condition in life, is often sought as a matter of favour, and is too often granted as such. The consequence is, that the teachers seldom possess the qualities absolutely requisite ; for example, many of them cannot speak French, though they have to teach a French population : most of them are rude and illiterate, prejudiced and bigoted : are these the persons to teach a people differing from themselves in habits, manners, religion, and language ? Few tasks can be found more difficult than that of instructing a rude people, distrustful of their teacher. The following observations, from the *Westminster Review*, speak the feelings of an Englishman on this point ; of one who had seen, and could appreciate the difficulties of the task, as well as the attempts of the Royal Institution to accomplish it :—“ For the most part also, these places have been conferred upon persons ignorant of the French language, and utter strangers to the people ; usually upon boorish and ignorant emigrants, just imported from the mother country, whose stupid prejudices unfitted them for the task of educating any body ; and, above all, for performing the delicate

part of instructing a people differing from themselves in religion, in language, and in manners."

2. Supposing the difficulties of a proper choice completely conquered, and a fitting person be found, it must be evident that the teacher would not be particularly careful to suit himself to the wishes of the parents. Under the control of a set of persons at a distance, of persons not very desirous of being troubled with complaints, the master would pursue the conduct most likely to please himself. Being, usually, an European, his habits are entirely different from those of the persons to be taught; and he generally endeavours to bend the manners of his scholars to his own, rather than suit himself to theirs; he does little to conciliate the parents, still less to conciliate the religious instructor of the parents, viz: the priest. He thus is soon at open war with his neighbourhood: as was to be expected, he is far from being industrious; far from being obliging: he possesses little knowledge needed by the people; and that little, he knows not how to communicate.

3. The teacher, also, is usually of a religion different from that of the persons to be taught; he is therefore an object of distrust to the parents. Moreover, as he is possessed of little of that liberality of feeling which makes us look upon differing creeds without rancour or hostility, he is seldom careful to restrain his opinions, or to guard his expressions; he soon gives offence, and awakens suspicion. Is it to be expected that, under these circumstances, the Royal Institution could prove an efficient instrument of instruction? Can any one believe that this institution possesses the advantages of the plan proposed by the House of Assembly, and supported by the clergy? And, again, I would ask, are the clergy or the Government, in this case, to be blamed for having, by the aid of an inefficient institution, kept the people in ignorance?

I have said thus much in exculpation of the clergy of Canada, from a feeling of gratitude towards that respectable

body. Whatever degree of enlightenment exists among the upper classes of the Canadian people, is owing entirely to the exertions of the priesthood : so far have they been from keeping the people in ignorance, that to them alone can the merit be ascribed of saving us from absolute barbarism. The persons whose duty it was to instruct the people, criminally neglected that duty ; and with indifference permitted it to be assumed by any one who would voluntarily assume the office. The business of government is usually considered to consist in levying taxes, and punishing breaches of the law ; the much more important branch, of *preventing* breaches of the law, is generally left to the people themselves. The Government of Canada, like its more powerful compeers, followed the same ill-advised method of proceeding. Education, that most powerful of all means of preventing breaches of the law, was left to the mercy of chance ; when, at length, roused from their pernicious lethargy, the members of the Government sought to render education, like every thing else with which they had any concern, a matter of party, of favour, and of jobbing ; and the country who resisted this proceeding, and the priesthood who would not support it, were accused of bigotry and prejudice. The former efforts of the priesthood in that cause, which the Government had neglected, were decried ; the Government, forgetting that they themselves had done nothing, abused those who had not done every thing, which they, the people of government, thought might have been effected. Assuredly the conduct of the clergy, who voluntarily came forward and lent some assistance (I say *great* assistance) to the cause of education, is far more laudable than that of the Government, who passed it over entirely. Assuredly the clergy deserve praise rather than blame, even supposing their exertions to have been less than perfect ; even supposing, that to educate persons for the office of the priesthood has still been their chief consideration. Oxford and Cambridge are supposed to do the same thing : and yet those two seminaries would feel indignant, were they accused of not aiding in the general educa-

tion of the higher classes of the community. In short, it is but too evident, that the aspersions cast upon the Roman Catholic clergy have originated in ill feeling and prejudice, rather than in any desire to promote the business of instruction\*.

Having said thus much in defence of the priesthood, I proceed to point out what ought to be done for the future improvement of the people.

\* I beg my readers to believe, that in thus doing justice to the Canadian clergy, I am impelled by no feeling of religious prejudice; I am by no means desirous either of exaggerating their merits, or extenuating their faults. The observations I have made, have been suggested solely by the reproaches which have been directed against the Catholic clergy, as favouring chiefly those students who manifest the greatest predilection for the ecclesiastical vocation. On this head, I am myself the better able to speak, from having never been in *odour of sanctity*, in the opinion of the priesthood, from whom I received part of my education: I might, therefore, be deemed to know something with respect to their conduct. Still, on reflection, I am inclined to believe that this conduct, on their part, is the natural result of their situation; and that every other priesthood would have acted in the same manner, as will, I doubt not, be soon exemplified by the college lately erected at Montreal, under the auspices of the Protestant clergy. There will be found no greater liberality than in the halls of their Romish brethren; and for this simple reason—all religious sects are like so many military bodies, and, like them, are necessarily obliged, for the purpose of continuing their power and existence, to hold out rewards for new recruits. A strict discipline and subordination must also exist in a religious corporation, as in a regiment, and every one who opposes himself to the *esprit de corps*, which necessarily arises therein, or to the subordination required, must naturally be looked upon with an evil eye by those who rule, since such resistance to authority must diminish the efficiency and dominion of the body: and it follows, that every effort will be taken to repress, rather than encourage, these refractory spirits. This has taken place in every establishment in which religion has been the principal object of education; I except no sect whatever, all have the same tendency; and if a Government give one sect the preference above all others, and endow them with exclusive rights and privileges, arbitrary acts and continual discord will be the infallible result. I cannot here avoid remarking how the spirit of the present age has already changed, which change is undoubtedly due to the advance of education. The emancipation of the Roman Catholics is a marked epoch in the advance of the human mind, and will confer more honour upon the Duke of Wellington than all his victories: while the erection of an university, without any religious prejudices, in the centre of the largest city of Europe, is the most noble proof which its founders could give of their generous devotion to the cause of humanity.

Scholastic education may be divided into two distinct portions: the first comprehending such degree of instruction as is needed by every member of the community; the second, such additional degree as is required by persons dedicated to particular branches of science.

If we were to suppose a country possessing a perfect organization for the business of education, we might believe that such organization would consist, first of elementary schools spread over the whole surface of the country; and, secondly, of such a number of schools of higher instruction as would, at the least possible inconvenience, educate that small portion, which of necessity would alone require a higher degree of mental cultivation than could be afforded at the elementary schools. Supposing the knowledge conveyed in these superior schools to be complete, the degree of mental cultivation, and, we may safely say, the degree of happiness enjoyed by the people at large, would be indicated by the difference between the knowledge imparted in the superior, and that imparted in the elementary schools. The nearer the latter approached to the former, the more improved would be the condition of the people. The grand end then should be, to convey the greatest possible quantity of knowledge in the elementary schools. To this end the following circumstances should be taken into consideration:—

1. First the amount of *money* which the people generally can afford to pay for instruction.
2. The amount of *time* that can be spared to the education of the children.

As there are few things so important as education, so there are few things which ought not to yield to it in precedence. The administering justice excepted, every expense ought to be spared, rather than curtail the outlay for instruction. If taxes are to be raised from the people, they ought to be most beneficially employed; what employment so beneficial as that of improving the people? Let the Government, if it be found that the country can afford little additional money in the way of supply, curtail every expenditure, and appro-

priate the savings thus obtained to the *liberal* provision of the elementary schools; let them not affix such salaries to the office of teacher, as must induce the necessity of accepting rude and illiterate hinds to perform that important task; every thing should be done to raise the teacher in the scale of importance in society. The duty of the judge is not more—is not so important; why, then, should the judge be paid in thousands, and the poor teacher be endowed with the bare means of subsistence? The teacher of a school ought, in acquirements, to be the first man of his community. And even though he have to convey merely elementary knowledge, he cannot perform his duty well, unless he be a man of high intellectual powers. To convey knowledge to an intelligent man is an easy task, as compared with the conveying knowledge to the weak and tottering intellect of a child. The teacher of the child ought therefore to possess, in a higher degree, the qualities of a teacher; and these qualities he can seldom attain, without also a high degree of knowledge.

The *time* which can be appropriated to the education of the child, must greatly regulate the quantity and sort of instruction that can be imparted to him. If a long time can be afforded, a wide foundation may be laid; a wide extent gone over; if only a short period can be given, the aim or scope must of necessity be less. The quantity of instruction then will depend both on the money and the time that can be afforded; and in determining the sort of instruction, the different branches that should be attempted, a perfect knowledge of the present situation of the people is necessarily required; added to which, a very high degree of familiarity with the task of teaching would also be needed.

The present situation of the Canadians permits, in my opinion, of a very high degree of instruction. Though the people are poor, as compared with certain individuals of this and other European kingdoms, still the means of subsistence are easily maintained, and the whole mass of the population are in flourishing circumstances. Each village

could afford sufficient to maintain a teacher in a state quite as respectable as the most wealthy inhabitants of the village; a motive would thus be held out to the most instructed persons in their community, to undertake the task of teachers. Moreover, lands might easily be appropriated to the same purpose; and would thus, eventually, most amply provide for the complete instruction of the whole population, and the burden of taxation for the purpose might, in a short time, be entirely dispensed with.

Against this, it cannot be urged that a very small portion of the population has hitherto afforded to educate their children. To send their children to distant seminaries, to maintain them at great expense, and to pay the teacher, is a far more expensive matter than to pay a teacher for each separate village. The children, in the latter case, can be maintained in the family of the parents, and may dedicate certain portions of their time to productive labour; and thus materially lighten the burden of the parents. The absence of elementary schools has been the cause of the little education of the people hitherto; but that absence is not attributable to the want of means on the part of the people, but to the circumstances which I have above described.

The time, moreover, which the Canadian peasant can dedicate to instruction, is far greater than could be afforded by a population whose means of subsistence are not so easily obtained. The time must be computed first, with reference to the number of years that could possibly be allowed; and secondly, with reference to the time in each year. I have already mentioned, that one half the year, *viz.*, the winter, is usually unemployed in productive labour; this portion of the year, therefore, might be allowed for instruction, to an indefinite period; not only might the child be then instructed, but also the youth; and not only the youth, but the man: in short, the peasant, for his whole life, might spend nearly one-half the year in being instructed. It is true, however, that, inasmuch as every person lives on his own farm, the distance from the school must in some cases become great, and

thus time be lost in going and coming; the cases, however, compared with the whole population, are few; the evil is not, upon the whole, very material, and must necessarily diminish with the increasing number of the people. As the parents can obtain their subsistence easily, they can dispense, for a long series of years, with the assistance of their children, except in particular cases, *viz.* the hay and harvest time; the time of the children can therefore be almost wholly dedicated to being instructed. With a little care they might be as well, perhaps better instructed, than any people on the earth.

What, it may be asked, could be the plan upon which these schools should be constructed? I answer:—

As to their government and maintenance, that the people should be compelled to pay a given sum, in the shape of an education tax; that of this sum, part should be used as salary for the teacher, part to maintaining the schools, providing books, &c.

That every teacher should have a specific sum; if the village were unable to furnish that sum, the country generally should make it up.

That the teacher should be chosen by the people of the village, and he should be removable by them.

And that a standing committee of the House of Assembly should be appointed, for the purpose of inspecting the business of education, as carried on by these elementary schools.

As to the instruction to be conveyed, little could be advanced by me, in the present state of our knowledge, as to the exact means of the people. It may however be remarked, that after these necessary means of acquiring knowledge, *viz.* reading, writing, and the elements of numbers, have been learned, much useful instruction might be conveyed to the people respecting the business of agriculture. So much of the sciences of chemistry, natural philosophy, and mechanics as is immediately connected with agriculture might easily be obtained, as well as a competent knowledge of the political rights and obligations of the people at large. The

following sensible observations pretty nearly express my opinion on the present subject:—

“Afin d'épargner sur le temps dans l'éducation du peuple nous voudrions qu'à travers la lecture, l'écriture, et un peu d'arithmétique, les maîtres glissassent dans l'esprit des élèves des leçons de justice et de morale. Ils devraient aussi, suivant les circonstances, leur donner une idée abrégée de la constitution du pays, et des principales parties des arts et des sciences qui se rapportent à l'agriculture. Le reste de leurs devoirs doit se borner à leur faire aimer leur état, et leur apprendre à le faire respecter en le respectant eux-mêmes\*.”

As the situation of the people improved, and it would of necessity rapidly improve, the knowledge imparted would gradually increase, and the whole population would tend towards that state of perfection in moral and intellectual acquirements which is above described.

I pass now to the consideration of the superior schools.

At present the Government has in its own hands the means of at once establishing schools of this description to the entire extent needed by the situation of the country. In the city of Quebec, they have a building erected for this very purpose, though now a barrack; they have a large revenue derived from the Jesuits' property, formerly employed in this useful manner. They want only the inclination at once to create a complete university. A school of this description, in two of the principal towns of the country, would abundantly suffice (at least for the present) to educate the whole of that portion of the population needing more instruction than can be conveyed in the elementary schools. These superior seminaries might be erected without any increase of expense to the people; and might contribute more to the general improvement of the whole country than any institution hitherto established. From this institution would, eventually, be derived the teachers of the elementary schools:

\* *La Minerve*, 5 Juillet, 1827.

the men of the law, the church, and of medicine, would here receive their education, and the whole of those persons destined eventually to carry on the government, would mingle together, and devote their attention and their time to a thorough understanding of the physical and political situation of their country. A mass of intelligence would thus be collected together; collision and communication, without which few improvements ever take place, would necessarily be actively existing, and all the evil influence of ignorance would rapidly be for ever destroyed.

Here again it may be asked—What plan of organization, so as to suit the various interests and feelings now existing, could possibly be proposed?

Considering the feelings of the country to be fairly represented by the House of Assembly, in its hands I would place the ultimate control; this would be attained by giving the House the election of a Council, to carry on the business of the University. In the case of the elementary schools, each village was supposed to govern its own school. These superior schools are the schools of the nation; and, upon the same principle, should be under the government of the nation: but this can only be by placing them under the control of the nation's representatives. This control would be fully obtained by the election of the ruling council of the body; the further regulations it is not necessary to notice. Should the plan I suggest ever be acted upon, I feel little anxiety respecting the measures that would be adopted. The country possesses sufficient knowledge and talent to give full effect to this salutary institution.

One thing, perhaps, I may be permitted to suggest, *viz.* that greater liberality of feeling should be attained by the clergy of the various sects now existing in Canada; that they should learn to forego the petty rivalry which they have hitherto kept up; that they should look upon one another as persons tending to the same great end—fellow

labourers in the same great cause; that they be less narrow minded—less bigoted, more benevolent than heretofore. Let them aid the business of education by disseminating principles of good-will and kindly feeling among the people, rather than check the progress of improvement, by attempting to create religious animosities, and making bitter enemies of men who ought to be brothers.

## CHAPTER VI.

### *Of the Waste Lands of the Crown, and the Lands reserved for the Protestant Clergy.*

I AM about to treat of a subject of the highest importance, *viz.* the distribution of lands since the conquest of the country; to establish, by extracts which I propose to make from the different reports of a committee appointed by the Assembly, at the desire of the Governor-General in 1824, that it would have been more advantageous to continue the lands *en fief et seigneurie*, as hitherto, than to adopt the tenure *in free and common soccage*. And besides, I hope to establish, that, in the proceedings relative to this matter, the local government has been actuated rather by a wish to favour private interests than to promote the public welfare.

A thing which surprises every body, and more particularly such strangers as come into the country, is, that the Canadian population is not more extended, and that the land hitherto settled in the townships has been occupied solely by emigrants from different parts of Great Britain, Ireland, and the United States. What has hindered the Canadians from settling in the townships? The land, according to the reports of various surveyors, is excellent; and the climate, in many parts, is more temperate and healthy than many places long settled. And yet, in spite of this, the Canadians remain upon the lands conceded *en fief et seigneurie*, being apparently not in the least desirous

of establishing themselves in the townships. The opinion, that the population was not sufficiently considerable to force them to adopt the measure; and that such circumstances would immediately occur, prevailed a long time. In spite of this, however, the facts have been diametrically opposed to such a result: the inhabitants have preferred, and do still prefer, to take lands conceded to them in the most remote parts of the seigneuries, in places almost impossible to be cultivated; on the top of steep and desert mountains, rather than upon the fertile lands of the townships. At length the local government thought it requisite to consider the subject; and the Governor-General recommended the investigation of this important matter to the House of Assembly, for the purpose of discovering the circumstances which had retarded, to the present time, the settlement of the waste lands of the Crown. The House of Assembly, being as well convinced as the Governor of the importance of the subject, and the absolute necessity of obtaining all possible information upon it, immediately appointed a committee. At the head of this committee was Andrew Stuart, Esq. advocate, a man of superior judgment and knowledge, acquainted with every thing connected with the interests of the country, and thoroughly conversant with the means of obtaining all the information requisite in the matter.

The object of this work will not permit to extract more from the above-mentioned reports than is absolutely necessary for my present purpose; but I recommend to those who take an interest in the affairs of the country, and who are desirous of obtaining valuable information respecting it, to procure these reports; and I am convinced they will not regret the money thus expended.

According to the first report of the committee, it appeared evident, that Lower Canada possessed a surplus of agricultural population sufficient to settle a large part of the *waste lands* of the Crown; and our surprise is at the utmost, when

we learn, that this population never attempts to extend itself over these waste lands by which they are surrounded.

*“ First Report of the Committee of the House of Assembly, on that part of the Speech of his Excellency the Governor-in-Chief which relates to the Settlement of the Crown Lands. Printed in Quebec, and dated the 12th of February, 1821.*

“ Your Committee, deeply sensible of the importance of the matter referred to them, have lost no time, and spared no labour, in investigating the causes which have hitherto retarded the settlement of this province, and more particularly of the waste lands of the Crown, and yet unconceded seigneurial lands.

“ Their attention was, in the first instance, directed to the ascertaining of the amount of the surplus agricultural population of this province, for whom it was expedient and just to provide habitations.

“ From the declarations of several witnesses, which your Committee examined, it was manifest that Lower Canada possesses in itself an abundant population to settle these waste lands.

“ To determine as exactly as might be the precise amount of this surplus population, your Committee proposed a series of questions, and transmitted the same to the curates of the different parishes in this province, and to some of the more distinguished seigneurs resident in the country, with a request to communicate their answers with all convenient speed. Sufficient time has not yet elapsed to entitle your Committee to answers to these queries. They anticipate, however, with confidence, much valuable information from these respectable sources ; and, when received, will feel it their duty to lay the same before this House with the least possible delay.

“ Your Committee next directed their attention to the determining of the quantity, and ascertaining of the quality of the waste and ungranted lands of the Crown, with their

local advantages or disadvantages, viewed with reference to actual settlements. The result of these inquiries was in the highest degree satisfactory, and evinces that land advantageously situated may be provided for the entire surplus population of Lower Canada\*.

“ It could not but excite surprise in the minds of your Committee, that the large surplus agricultural population of the province had not been long since located upon the vast tracts of ungranted lands of the Crown ; and it became a matter of anxious inquiry to them, whether the causes which had produced the strange anomaly of a superabundant agricultural population, environed by a wilderness of lands, were permanent in their nature, or otherwise.

“ It is with no ordinary satisfaction, that your Committee have it in their power to declare, as their opinion, that these causes are not of a permanent nature ; and to add, that a hope that their removal may be considered as neither of difficulty or distant attainment, may reasonably be indulged.

“ In the opinion of your Committee, one of the principal causes which have retarded the settlement of the waste lands of the Crown in Lower Canada, has been the abandonment of the ancient mode of granting lands in fief or seigneurie, and the introduction of the tenure of free and common soccage—a tenure novel and unknown to the people of this country.

“ The first subject of inquiry of your Committee has been, into the causes which led to the adoption of a measure which did not appear to manifest that regard for the ancient laws and institutions of this province which so evidently characterized His Majesty’s Government generally ; and here abundant proof was afforded to your Committee, that a policy so adverse in its spirit to the general policy of His Majesty’s Government towards this colony arose, not from any intermission of that regard, but from extrinsic circumstances,

\* “ The examinations upon this matter, taken before your Committee, will be found in the Appendix to this Report, under the letter B.”—For an extract of these examinations, see Appendix, No. XII., of the present Work.

which it was not in the power of your Committee to more than partially explore.

“ So early as the year 1775, His Majesty was graciously pleased, by his instructions to Guy Carleton, Esq., Captain-General and Governor-in-Chief in and over the province of Quebec, in America, and of all the territories dependent thereupon, dated St. James's, the 3rd of February, 1775, with other matters relating to the good government of this province, to order, as follows:—

38. “ ‘ By our Commission to you, under our Great Seal of Great Britain, you are authorized and empowered, with the advice and consent of our council, to settle and agree with the inhabitants of our said province of Quebec, for such lands, tenements, and hereditaments, as now are, or shall hereafter be in our power to dispose of. It is therefore our will and pleasure, that all lands which now are, or hereafter may be subject to our disposal, be granted in fief or seigneurie, in like manner as was practised antecedent to the conquest of the said province, omitting, however, in any grant that shall be passed of such lands, the reservation of any judicial powers or privileges whatever: and it is our further will and pleasure, that all grants in fief or seigneurie, so to be passed by you as aforesaid, be made subject to our royal ratification or disallowance, and a due registry thereof within a limited time, in like manner as was practised in regard to grants and concessions held in fief and seigneurie under the French Government.’

“ That, in the year 1786, His Majesty was graciously pleased, by such articles in the instructions to Lord Dorchester as are not contained in the instructions to Guy Carleton, Esq. in 1775, also a copy of such articles, or parts thereof, in the same instructions to Guy Carleton, Esq. in 1775, to order as follow:—

40. “ ‘ Whereas, many of our loyal subjects, inhabitants of the colonies and provinces, now the United States of America, are desirous of retaining their allegiance to us, and of living in our dominions, and for this purpose are

‘ disposed to take up and improve lands in our province of  
‘ Quebec; and we, being desirous to encourage our said loyal  
‘ subjects in such their intentions, and to testify our appro-  
‘ bation of their loyalty to us, and obedience to our govern-  
‘ ment, by allotting lands for them in our said province; and  
‘ whereas, we are also desirous of testifying our approbation  
‘ of the bravery and loyalty of our forces serving in our said  
‘ province, and who may have been reduced there, by allow-  
‘ ing a certain quantity of land to such of the non-commis-  
‘ sioned officers and private men of our said forces who are  
‘ inclined to become settlers therein; it is our will and plea-  
‘ sure, that immediately after you receive these our instruc-  
‘ tions, you do direct our Surveyor-General of lands for our  
‘ said province of Quebec, to admeasure and lay out such  
‘ quantity of land as you, with the advice of our council,  
‘ shall deem necessary and convenient for the settlement of  
‘ our said loyal subjects, and the non-commissioned officers  
‘ and private men of our forces, which may have been re-  
‘ duced in our said province, who shall be desirous of becom-  
‘ ing settlers therein; such lands to be divided into distinct  
‘ seigneuries or fiefs, to extend from two to four leagues in  
‘ front, and from three to five leagues in depth, if, situated  
‘ upon a navigable river, otherwise to be run square, or in  
‘ such shape, and in such quantities, as shall be convenient  
‘ and practicable, and in each seigneurie a glebe to be reserved  
‘ and laid out in the most convenient spot, to contain no less  
‘ than three hundred acres, nor more than five hundred  
‘ acres; the property of which seigneuries or fiefs shall be  
‘ and remain vested in us, our heirs and successors; and you  
‘ shall allot such parts of the same as shall be applied for by  
‘ any of our said loyal subjects, non-commissioned officers,  
‘ and private men of our forces reduced as aforesaid, in the  
‘ following proportions, that is to say, &c.

“ ‘ The said lands to be held under us, our heirs, and  
‘ successors, seigneurs of the seigneurie or fief, in which the  
‘ same shall be situated, upon the same terms, acknow-  
‘ ledgments and services, as lands are held in our said pro-

‘vince, under the respective seigneurs, holding and possessing seigneuries or fiefs therein; and reserving to us, our heirs, and successors, from and after the expiration of ten years from the admission of the respective tenants, a quit rent of one halfpenny per acre.’

“That after the declaration of American independence, in the year 1776, the powers of His Majesty’s government in this colony came to be exercised by persons who had resided and held offices in the old British colonies, who succeeded to the principal offices in this province; that, from the manner in which the influence of those gentlemen and their friends had been exercised in the old colonies, and from the ill success which had attended the policy adopted by their advice, Canada could augur but unfavourably of the administration which was destined to rule it.

“The alarms of the people of Canada were greatly increased by a large influx of loyalists, who were naturally anxious to retain the laws, institutions, and tenures to which they were accustomed; notwithstanding that Great Britain had, by an Act of the Imperial Parliament, commonly called the Quebec Act (14th George III., cap. 83)\*, guaranteed to His Majesty’s Canadian subjects ‘within the province of Quebec, that they, the religious orders and communities only excepted, might hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other their civil rights, in as large, ample, and beneficial a manner as if the said proclamation, commissions, ordinances, and other acts and instruments had not been made; and as may consist with their allegiance to His Majesty, and subjection to the Crown and Parliament of Great Britain; and that in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the Courts of Justice to be appointed

\* See Appendix, No. VI.

‘ within and for the said province, by His Majesty, his  
 ‘ heirs and successors, shall, with respect to such property  
 ‘ and rights, be determined agreeably to the said laws and  
 ‘ customs of Canada, until they shall be varied or altered by  
 ‘ any ordinances that shall, from time to time, be passed in  
 ‘ the said province by the Governor, Lieutenant-Governor,  
 ‘ or Commander-in-Chief for the time being, by and with the  
 ‘ advice and consent of the Legislative Council of the same,  
 ‘ to be appointed in the manner hereinafter mentioned.’—  
 Still several petitions, which are to be met with in a volume  
 entitled *Quebec State Papers*, were transmitted to His  
 Majesty’s Government, by His Majesty’s Canadian subjects,  
 praying that they might be maintained in their ancient laws  
 and institutions.

“ That these apprehensions were by no means so visionary  
 as might at first sight appear; for the repudiated public  
 men of the old British colonies had, by their acts, attained  
 that dominion in Canada which their more wise and honest  
 countrymen had not been able to achieve by their arms.

“ Accordingly, in the year 1790, His Excellency the  
 Right Honourable Guy Lord Dorchester was pleased to  
 refer to a committee of the whole of the Honourable the  
 Legislative Council, ‘ to investigate and report a statement  
 ‘ of the comparative advantages and disadvantages of the  
 ‘ tenure in free and common soccage, and the present tenures  
 ‘ of the province of a different description, with a view to the  
 ‘ public interest, as well as that of the individuals holding  
 ‘ under such tenures. That they deliberate, and in case a  
 ‘ conversion of the present tenures in fief or otherwise into soc-  
 ‘ cagetenure shall appear to be advisable, that they report upon  
 ‘ the most eligible mode of effecting the same, without pre-  
 ‘ judice to the rights of individuals, and the general interests  
 ‘ of the country. In doing this, the committee are to attend  
 ‘ to the nature and operation of the different clauses in the  
 ‘ statute of 12th Car. II., cap. 24, by which soccage holding  
 ‘ was made general in England, giving Mr. Lanaudière, at  
 ‘ the same time, an opportunity to be heard on his petition

‘ for a conversion of the tenure of his estates into that of free  
 ‘ and common soccage, which was referred to a committee of  
 ‘ the Council on the 14th of February, 1788; and the com-  
 ‘ mittee may call on Mr. Attorney and Solicitor-General for  
 ‘ their opinion on the subject matter of the reference, if  
 ‘ they shall conceive the same to be necessary, and take all  
 ‘ such other means as they may think proper for acquiring  
 ‘ the necessary information. And further, if the Legislative  
 ‘ interposition shall appear to be necessary, the committee  
 ‘ are to report such draft of a Bill as the case may require.’  
 The resolves of the Council, and the resolutions and motion  
 of the Chief Justice, adopted by the committee, were calcu-  
 lated to introduce the tenure in free and common soccage,  
 in lieu of the ancient tenure of the country, in all new grants;  
 and to undermine, and ultimately overturn those tenures in  
 the old grants. These resolves, with the reasons of dissent  
 therefrom, by Mr. Mabane, are subjoined to this report  
 under the letter C\*.

“ It is consoling to reflect that His Majesty’s Government  
 did not participate in this scheme.

“ The debates upon the Constitutional Act of these pro-  
 vinces (31st George III., cap. 31) exhibit the two great  
 statesmen in the British House of Commons, who in almost  
 every other object of public policy were opposed to each  
 other, concurring in the justice and expediency of main-  
 taining his Majesty’s Canadian subjects who had been reared  
 under, and were attached to the laws and institutions of  
 England, in the possession of those laws and institutions, and  
 conferring upon both the inestimable advantages of the  
 British constitution.

“ It was, in consequence, provided by the Constitutional  
 Act, ‘ that there should be, in the provinces of Upper and  
 ‘ Lower Canada respectively, a Legislative Council and  
 ‘ Assembly, to be severally composed in the manner de-  
 ‘ scribed in the said Act, to make laws for the peace, welfare,

\* See Appendix, No. XIII.

‘ and good government of those provinces;’ and in a subsequent clause, ‘ that all lands, which shall be hereafter granted within the said province of Upper Canada, shall be granted in free and common soccage, in like manner as lands are now holden in free and common, in that part of Great Britain called England; and that in every case where lands shall be hereafter granted within the said province of Lower Canada, and when the grantee thereof shall desire the same to be granted in free and common soccage, the same shall be so granted; but subject, nevertheless, to such alterations, with respect to the nature and consequences of such tenure of free and common soccage, as may be established by any law or laws, which may be made by His Majesty, his heirs and successors, by and with the advice and consent of the Legislative Council and Assembly of the province;’ and a free and representative Government was thus assured to these colonies.

“ Your Committee, in proceeding upon the inquiry upon the comparative advantages and disadvantages of the ancient tenures of this country, and of the free and common soccage tenure, come to a conclusion, that the former possesses decided advantages over the latter, in the settlement of a new country.

“ Your Committee did not deem it necessary to institute any inquiry respecting the comparative advantages of these tenures in a more advanced state of society, leaving it to the wisdom of their remote posterity to provide remedies for these inconveniences, when they shall arise. It could not fail to strike the attention of your Committee, that great prejudices existed in the minds of the British descendants upon this continent against the tenure en fief. The statute, 12th Car. II., cap. 24, operated a salutary revolution in the constitution of Great Britain, and it is said by high authority to have been ‘ a greater acquisition to the civil property of the kingdom than Magna Charta;’ yet although by means of it ‘ the oppressive or military part of the feudal constitution was happily done away, we are not to imagine that the

‘ constitution itself was utterly laid aside, and a new one introduced in its room since, by the statute of 12th Car. II., the tenures of soccage and frankalmoing, the honorary services of grand sergeanty, and the tenure by copy of court roll were reserved ; nay, all tenures in general, except frankalmoing, grand sergeanty, and copyhold, were reduced to one general species of tenure, then well known and subsisting, called free and common soccage, and this sprung from the same feudal origin as the rest.’

“ The reasons which induced your Committee to come to the above conclusion are as follows :—

“ The two great obstacles to settlements in all new countries are,—the want of capital, and the consequent want of a market for labour in those comparatively remote situations. In a city composed of artisans, having all for sale the same commodity, whatever be its excellence, they will all starve ; in a new settlement, composed entirely of labourers, to be furnished with meat and clothing from the sale of their labour they also starve from the same cause—the want of customers.

“ The things possessed by each, though valuable in themselves, possess no exchangeable value. The minimum of capital required to be employed for any productive labour, will be regulated by the quickness or slowness of the return. Unfortunately, in the clearing of land, even upon the smallest scale, the return to the actual settler is slow—generally from nine to twelve months.

“ Where actual settlements are now found upon the continent of North America, the above obstacles have been surmounted, either :—

“ 1st. Fortuitously, by the accidental coming together of persons having capital, and persons having labour, at the formation of the new settlements, as in the case of Massachusetts ;—or,

“ 2nd. By the Government making a donation to the new settler of capital sufficient to support him until his labour became productive ; as was done in Upper Canada, at the commencement of its settlements in 1783-4, and has,

it is believed, since been done in some of the late military settlements in that country ;—or,

“ 3rd. By the Government granting the lands in a manner to secure the laying out of a sufficient capital by individuals for this purpose, with a view to their own profit.

“ In the first there is danger that there be not a due proportion of capital ; and then the first settlers are subjected to great hardships, as happened to the first settlers of Massachusetts.

“ The second is exceedingly expensive and onerous to Government ; indeed so much so, that it cannot be carried on upon a very extensive scale, nor permanently.

“ The third appears obviously to be the best system. It may be carried on, not only to the extent of capital which the capitalists of the colony itself may turn into this direction, but is calculated to draw capital from abroad into this channel, and thus enrich the colony, as well by the introduction of new capital, as by the advantageous employment of it when introduced.

“ The object of the capitalist is, to get from the Government the highest premium he can for employing his capital in the clearing of wild lands : on the other hand, that of the Government, on the behalf of itself, the owner of the lands to be granted, and on behalf of the needy individuals who are thus to obtain a settlement, and out of whom, in one shape or another, a large portion of the profit of the capitalist is to be extracted, is to give the capitalist as small a premium as he will accept for this use of his capital.

“ In the proprietary governments of the old British colonies, Maryland, &c. &c., the premium given to Lord Baltimore and the other great proprietors, to induce them to effect settlements in those countries, was much too high, and became so burdensome to the actual settler, that Government actually resumed the charters.

“ The system least onerous to the actual settler is, unquestionably, the French system of seigneuries.

“The only inconvenience of the system, and that was certainly a very great one, arose out of the civil, and sometimes criminal jurisdiction attached to the seigneurie. This, however, on the conquest, was removed.

“Under this tenure the actual settler had several advantages. He was not obliged to disburse any money for his land; whatever little stock he possessed might be entirely laid out upon the improvement of his farm.

“The seigneur, in certain cases, but not universally, was bound, by the conditions of the original grant, to open a road to communicate from the most remote settlement in his seigneurie to the next concession of ungranted lands therein. He was expected to build a mill, and the rate of *mouture* was fixed at a lower rate (one-fourteenth) than it now stands at in the United States. Where the greatest competition obtains (one-twelfth), the new settler had the countenance, support, and assistance of the seigneur, who was interested in effecting a settlement to save his seigneurie from forfeiture. And all this was obtained for a moderate annual rent\*.

“The system of seigneuries is calculated to produce, and has produced in this country, an equal division of the lands—a thing favourable to human happiness, to good morals and industrious habits, to the stability of laws and government, and to the military strength of a country.

“The tenure in seigneurie is one which the people of this country understand, and to which they are accustomed.

“The religious and social habits of the Canadian agriculturist prevent him from emigrating to the townships. He is there deprived of all the substantial comforts of his religion. His child cannot be baptized, nor receive instruction in the principles of his religion; on the verge of the tomb,

\* I beg the reader to pay particular attention to this passage, as it establishes, in my opinion, without possibility of contradiction, the advantage of one tenure over the other, for the settlement of wild lands.

he cannot receive religious consolation. He has no means of attending divine service.

“ From these causes, your Committee are persuaded that no Canadian settlements could be effected, unless the permanent residence or occasional attendance of a priest could be had at a chapel to be erected therein; and unless a colony of twenty or fifty men, in the habits of previous social intercourse, could be settled together. And your Committee see nothing so likely to produce this, as the erection of a sufficient number of seigneuries\*, to provide habitations and farms for the surplus population of the country.

“ For further and valuable information upon this subject, your Committee refer to a paper written and published in the year 1791, which will be found subjoined to this Report under the letter E†.

“ Upon the whole, your Committee are of opinion, that the first and principal obstacle which has existed to the settlement of the waste lands of the Crown, has been the neglect of the Colonial Administration to obey the above-mentioned wise and gracious instructions of His Majesty.

“ ANDREW STUART, Esq. CHAIRMAN.

“ *Quebec, February 12, 1821.*”

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By this Report and the extracts, which will be found, in the Appendix, from the evidence of the most respectable proprietors of the country, also from the dissent in Council of Mr. Mabane, and more particularly from the very just observations of Mons. Bedard, a most respectable and well-informed priest, it will clearly be demonstrated, that, for the

\* The Committee named by the House of Commons in 1828, to investigate our Canadian affairs, was precisely of the same opinion, as will be seen hereafter. See Report, July 22.

† See Appendix, No. XIV.

settlement of a new country, the concession of lands *en fief et seigneuries* is more advantageous than the tenure of *free and common soccage*; and that the Local Administration, in recommending to the Imperial Government a change of tenure, must have erred in judgment, or entertained views of private interest.

Many other persons appeared before the Committee, and all agreed in saying, that the reserves made by the Crown and the clergy, which amount to two-sevenths of the whole waste lands; the too great extent of land accorded to certain individuals, many of them absent from the province, and taking no means to settle their estates; the fees lately established in the Executive Council; the bad state of the roads, and the want of high roads\*, have been the chief causes of so small a number of settlements having been formed by settlers from Great Britain, in the townships of the province of Lower Canada. They also asserted, that the emigrants, being subjected to considerable unexpected expenses upon their arrival, as well as to delay, sometimes amounting to three months before they can obtain the deeds of their land, and thereby being kept back a whole season, nearly all prefer passing on to the United States, where they eventually settle. And I have also been myself assured, that the few who remain, almost invariably prefer establishing themselves in the seigneuries, to proceeding to the townships. On the other hand, Canadians refuse to settle in these territories, for causes already explained; but chiefly, in my opinion, from their belief in the superior advantages of the tenure *en fief* over that of *free and common soccage*, for persons having little or no capital. We ought then to conclude, after what has been explained, that the Local Administration, in recommending this change of tenure, and persisting in that recommendation, in spite of experience, of effects, the most injurious to the interests of

\* The Law of Lower Canada respecting roads extends not to the townships.

the country, has, as I said before, either been wanting in judgment or necessary information, or been influenced by views of private interest; which last supposition appears the most reasonable. I hope, therefore, that the Imperial Government will take into its most serious consideration the recommendation of the Select Committee appointed by the House of Commons, which recommendation is contained in that portion of its Report which relates to the old Canadians.

“The Committee cannot too strongly express their opinion, that the Canadians of French extraction should in no degree be disturbed in the peaceful enjoyment of their religious laws and privileges, as secured to them by the British Acts of Parliament; and so far from requiring them to hold lands on the British tenure, they think that, when the lands in the seigneuries are fully occupied, if the descendants of the original settlers shall still retain their preference to the tenure *en fief et seigneurie*, they see no objection to other portions of unoccupied lands in that province being granted to them on that tenure, provided that such lands are apart from, and not intermixed with the townships.”

The wish of ultimately overthrowing the Catholic religion may, perhaps, also be given as one of the causes of the proposed alteration of the tenure in the lands in Lower Canada. This object has been a phantom followed, if not so openly, with as much zeal, and I may add, as much success, as the reformation in Ireland. Protestant influence near the seat of Government brought forward the idea of making converts, and every support, though till lately not very ostensible, has been given to the Protestant clergy, to put in action their secret determination; but the usual deference was so completely laid aside in the formation of the Royal Institution before mentioned for the establishment of schools, and in the stipulation for furnishing the means to the teachers, that the Canadian population and their worthy pastors became alarmed, and not without cause. It is pleasing

however, to observe, that several highly respectable and well-informed Members of the Imperial Parliament appear to coincide with the unprejudiced and well-disposed part of the Canadian population. On the motion of Mr. Wilmot Horton, on the 20th of February, 1827, to introduce a Bill authorising the sale of lands, called Clergy Reserves, which we think were unwisely appropriated to the Protestant clergy by the Act of 1791, Mr. Baring said, "that he was entirely opposed to the appropriation of lands to the Protestant clergy in this manner, and that it would cause, finally, in Canada, the same troubles which were now existing in Ireland." Mr. Warburton also observed, very justly, "that instead of applying the produce of these lands to the benefit of the clergy, it ought to be employed in spreading education. The Act of 1791, in his opinion, aspired to nothing less than the establishment of a credence by force, in spite of the people's opinion." Mr. Dawson observed, "that there were two great blunders in the Act of 1791. One was the appropriation of a provision for a clergy before they had sought to provide any kind of congregation; and the other was, the fixing of lands in ecclesiastical hands to the injury of the land itself."

In the disposal of the waste lands, the Crown could not follow a better rule, than always to adopt that method by which they could obtain the greatest return; and if that could be done by conceding the lands *en seigneurie*, rather than in townships, I see no reasonable objection to the adoption of such a system; more especially as such a proceeding would give great satisfaction to the people of the province, and would furnish the means of extending the agricultural population, already too much compressed. Besides the advantages which would result in the shape of an increased revenue, there would also be greater stimulus given to emigration. Many proofs of this proposition can be given in the opinions formed on the matter by the settlers themselves. The following are among many which might be adduced:—

“ Richard Coughtrie, yeoman of Valcartier, in the seigniory of St. Gabriel, appeared before the Committee\* :—

“ Q. When was the settlement of Valcartier commenced ?

“ A. In the month of August, 1816.

“ Q. What distance were the first clearings of Valcartier from the last Canadian settlement ?

“ A. Six miles.

“ Q. What was the state of the roads previous to the commencement of that settlement, between the last Canadian settlements and this new establishment ?

“ A. There was no road passable for a cart, or even for a single horse, these six miles, during the summer season, by reason of the morasses and small streams which intersected this road ; these being frozen in the winter, the Canadian settlers were enabled to go a distance of a league and a half this road, which they did for the purpose of getting wood.

“ Q. What extent of road was made by the grantees of this tract ?

“ A. Two-thirds of a league.

“ Q. Did you at any time, and when, make a statistical table of this settlement ?

“ A. Yes, I assisted in the making out one in the autumn of 1820, and at the request of the grantees I made out another in the month of January, 1821, both of which I have in my possession.

“ Mr. Coughtrie then produced to the Committee the said statistical statements, which are as followeth :—

\* See First Report of the Committee of the House of Assembly, page 31.

# STATISTICAL TABLE OF THE SETTLEMENT OF VALCARTIER.

| Names of Householders.                           | Houses. | Children. | Male. | Female. | Servants. | Males. | Females. | Horses. | Oxen. | Cows. | Hogs. | Lands cleared and clearing. |
|--------------------------------------------------|---------|-----------|-------|---------|-----------|--------|----------|---------|-------|-------|-------|-----------------------------|
| <b>1st CONCESSION.</b>                           |         |           |       |         |           |        |          |         |       |       |       |                             |
| Richard Newman,                                  |         |           |       |         |           |        |          |         |       |       |       | 6                           |
| Wm. O'Hara,                                      |         |           |       |         |           |        |          |         |       |       |       | 6                           |
| Barnard O'Hara,                                  |         |           |       |         |           |        |          |         |       |       |       | 6                           |
| Patrick O'Hara,                                  |         |           |       |         |           |        |          |         |       |       |       | 4                           |
| Wm. M'Quillan,                                   |         |           |       |         |           |        |          |         |       |       |       | 8                           |
| John Carney,                                     |         |           |       |         |           |        |          |         |       |       |       | 7                           |
| Lieutenant Harvey,                               |         |           |       |         |           |        |          |         |       |       |       | 16                          |
| James Carle,                                     |         |           |       |         |           |        |          |         |       |       |       | 6                           |
| — Goff,                                          | 2       | 5         | 3     | 2       |           |        |          |         |       |       | 1     | 6                           |
| — Watt,                                          | 2       | 7         | 2     | 5       | 1         | 1      |          |         |       |       |       | 10                          |
|                                                  | 4       | 12        | 5     | 7       | 1         | 1      |          |         |       |       | 1     | 75                          |
| <b>2nd CONCESSION.</b>                           |         |           |       |         |           |        |          |         |       |       |       |                             |
| James Ireland,                                   | 2       | 3         | 1     | 2       |           |        |          | 1       |       | 1     | 2     | 12                          |
| — Ord,                                           | 1       |           |       |         |           |        |          |         |       |       |       | 4                           |
| David Johnson,                                   | 1       |           |       |         |           |        |          |         |       |       |       | 4                           |
| James Johnson,                                   | 1       |           |       |         |           |        |          |         |       |       |       | 3                           |
|                                                  | 5       | 3         | 1     | 2       |           |        |          | 1       |       | 1     | 2     | 23                          |
| <b>3rd CONCESSION.</b>                           |         |           |       |         |           |        |          |         |       |       |       |                             |
| Francis Barnard,                                 | 2       |           |       |         |           |        |          |         |       |       |       | 1                           |
| — Clement,                                       | 2       |           |       |         |           |        |          |         |       |       |       | 1                           |
| Edward Hunt,                                     | 2       |           |       |         |           |        |          |         |       |       |       | 1                           |
| John Johnson,                                    | 1       |           |       |         |           |        |          |         |       |       |       | 1                           |
| Pierre Renaud,                                   | 2       | 4         | 2     | 2       |           |        |          |         |       |       | 1     | 1                           |
| W. & B. O'Hara,                                  | 5       | 3         | 1     | 2       | 2         | 1      | 1        | 2       | 4     | 8     | 6     | 80                          |
| Wm. Brown,                                       | 1       | 7         | 3     | 4       |           |        |          | 1       | 4     | 3     | 2     | 62                          |
| M. Campbell,                                     | 2       | 4         | 3     | 1       | 2         | 2      |          | 2       | 1     | 3     | 5     | 50                          |
| J. O'Hara, } Occupied by<br>4 Emigrant Families. | 7       | 4         |       | 4       |           |        |          |         |       |       |       | 40                          |
| A. Buchanan,                                     |         |           |       |         |           |        |          |         |       |       |       | 10                          |
| Henry Patten,                                    | 3       | 3         | 2     | 1       | 2         | 2      |          | 1       |       | 4     | 3     | 30                          |
| John Mather,                                     | 2       | 3         |       | 3       |           |        |          |         |       | 2     | 1     | 20                          |
| Andrew Kerr,                                     | 2       | 2         |       | 2       |           |        |          |         |       |       |       | 1                           |
| Robert Goodfellow,                               | 3       |           |       |         |           |        |          |         |       |       |       | 1                           |
| Mr. Neilson, River side,                         | 1       |           |       |         |           |        |          | 1       | 2     | 7     | 2     | 35                          |
| Wm. White,                                       | 2       |           |       |         | 2         | 2      |          | 1       | 2     | 4     | 5     | 20                          |
| Wm. White,                                       |         |           |       |         |           |        |          |         |       |       |       | 4                           |
| Joseph Pierce,                                   |         |           |       |         |           |        |          |         |       |       |       | 4                           |
| John O'Hara,                                     |         |           |       |         |           |        |          |         |       |       |       | 4                           |
| Peter Dawsey,                                    |         |           |       |         |           |        |          |         |       |       |       | 4                           |
|                                                  | 37      | 30        | 11    | 19      | 8         | 7      | 1        | 8       | 13    | 31    | 26    | 370                         |

| Names of Householders. | Houses. | Children. | Male. | Female. | Servants. | Males. | Females. | Horses. | Oxen. | Cows. | Hogs. | Lands cleared and clearing. |
|------------------------|---------|-----------|-------|---------|-----------|--------|----------|---------|-------|-------|-------|-----------------------------|
| <b>4th CONCESSION.</b> |         |           |       |         |           |        |          |         |       |       |       |                             |
| Paschal Mercier,       | 2       | 2         | 1     | 1       |           |        |          |         |       | 1     | 1     | 5                           |
| Mr. Pozer's Man,       | 2       | 6         | 4     | 2       |           |        |          | 2       | 2     | 1     | 6     | 50                          |
| — Heney,               | 2       | 5         | 2     | 3       | 1         | 1      |          | 1       | 4     | 3     | 4     | 36                          |
| Wm. Corrigan,          | 1       |           |       |         |           |        |          |         |       |       |       | 9                           |
| John O'Neil,           | 2       | 3         | 1     | 2       | 3         | 3      |          | 1       | 4     | 6     | 4     | 30                          |
| Wm. Brown,             |         |           |       |         |           |        |          |         |       |       |       | 24                          |
| Richard Ward,          | 2       | 3         | 1     | 2       | 1         | 1      |          | 1       |       | 2     | 4     | 14                          |
| John Mather,           |         |           |       |         |           |        |          |         |       |       |       | 20                          |
| John Imrie,            | 2       | 2         |       | 2       | 5         | 5      |          | 1       | 3     | 9     | 6     | 40                          |
| Richard Coughtrie,     | 1       |           |       |         |           |        |          | 2       |       |       | 2     | 12                          |
| Edward Sweeney,        | 2       | 7         | 4     | 3       | 1         | 1      |          |         | 2     | 4     |       | 20                          |
| James Sweeney,         | 2       | 2         | 1     | 1       | 2         | 2      |          |         |       | 2     |       | 9                           |
|                        | 18      | 30        | 14    | 16      | 13        | 13     |          | 8       | 15    | 28    | 27    | 260                         |

|                                   |   |   |   |   |   |   |  |   |  |   |   |     |
|-----------------------------------|---|---|---|---|---|---|--|---|--|---|---|-----|
| <b>5th CONCESSION.</b>            |   |   |   |   |   |   |  |   |  |   |   |     |
| Serjeant Major Wolff,             |   |   |   |   | 3 | 3 |  |   |  |   |   | 50  |
| Captain Barrington,               |   |   |   |   | 1 | 1 |  |   |  |   |   | 6   |
| John Lavery,                      |   |   |   |   |   |   |  |   |  |   |   | 4   |
| Richard Coughtrie,                |   |   |   |   |   |   |  |   |  |   |   | 5   |
| John Sinclair,                    | 4 | 2 | 1 | 1 | 1 | 1 |  | 1 |  | 1 | 2 | 25  |
| John Imrie,                       |   |   |   |   |   |   |  |   |  |   |   | 20  |
| John M'Cartney,                   | 2 | 4 | 1 | 3 |   |   |  | 1 |  | 3 |   | 8   |
| J. B. Noreau,                     | 2 | 2 | 1 | 1 |   |   |  |   |  | 1 |   | 6   |
| James Sweeney,                    |   |   |   |   |   |   |  |   |  |   |   | 4   |
| Edward Sweeney,                   |   |   |   |   |   |   |  |   |  |   |   | 6   |
| Richard Ward,                     |   |   |   |   |   |   |  |   |  |   |   | 4   |
| John O'Neil,                      |   |   |   |   |   |   |  |   |  |   |   | 20  |
| Several Gentlemen, names unknown, |   |   |   |   |   |   |  |   |  |   |   | 40  |
|                                   | 8 | 8 | 3 | 5 | 5 | 5 |  | 2 |  | 5 | 2 | 198 |

**6th CONCESSION,** - - - - - 40

| CONCESSIONS.           | House keepers. | Children. | Male. | Female. | Servants. | Males. | Females. | Horses. | Oxen. | Cows. | Hogs. | Lands cleared and clearing. |
|------------------------|----------------|-----------|-------|---------|-----------|--------|----------|---------|-------|-------|-------|-----------------------------|
| <b>1st CONCESSION,</b> | 4              | 12        | 5     | 7       | 1         | 1      |          |         |       |       | 1     | 75                          |
| <b>2nd Ditto,</b>      | 5              | 8         | 1     | 2       |           |        |          |         |       |       |       | 23                          |
| <b>3rd Ditto,</b>      | 37             | 30        | 11    | 19      | 8         | 7      | 1        | 8       | 13    | 31    | 26    | 370                         |
| <b>4th Ditto,</b>      | 18             | 30        | 14    | 16      | 13        | 13     |          | 8       | 15    | 28    | 27    | 260                         |
| <b>5th Ditto,</b>      | 8              | 8         | 3     | 5       | 5         | 5      |          | 2       |       | 5     | 2     | 190                         |
| <b>6th Ditto,</b>      |                |           |       |         |           |        |          |         |       |       |       | 40                          |
|                        | 72             | 83        | 34    | 49      | 27        | 26     | 1        | 19      | 28    | 66    | 58    | 958                         |

Lands cleared in the 5th Concession, adjoining 6th Concession, 20

Total Number of Souls, 182. Arpents, 978

“ Q. Has there been any, and what increase, within the period alluded to ?

“ A. There has been an increase of sixty souls ; there are twenty houses and upwards. The increase of stock is not very considerable. There has been four hundred acres of land cleared and clearing.

“ Q. Did you act as agent for any individuals who contracted for the clearing of land there with emigrants ?

“ A. Yes ; I did.

“ Q. What is the number of emigrants, and the number of their families ; and when did they arrive, and from what country came they ?

“ A. Four men, three women, and four children of the age of seven years ; they arrived in the month of November, from Ireland ; they were three Protestants, and one Catholic. The gentleman who employed me had, as I understood from him, been requested by the Emigrant Society of Quebec to give each of these four heads of families a job of ten acres, upon four several lots, to clear and fence, for four gentlemen in Quebec, who had undertaken to employ these individuals for this purpose, in consideration of the Committee of the Emigrant Society obtaining from the Commissioners of the Jesuits' estates a grant of these lots. My duty was, to see that these individuals worked faithfully, and to take care that they should be as little in advance as possible ; to communicate from time to time with the principal respecting their wants ; obtain supplies from time to time from Quebec or within the settlement, distribute them amongst them, and keep just and true account.

“ Q. How were the purchases made ?

“ A. The pork, which is the most expensive article, was purchased by the barrel at the wholesale price ; the flour was bought in the market ; and the fish from the wholesale dealers. The pork cost 3*d.* per pound ; fish, 14*s.* a quintal ; flour, 10*s.* 6*d.* a quintal ; pease, 4*s.* 6*d.* per bushel. The costs constituted the whole amount of the advances, except bedding and blankets, which were also purchased at the lowest prices.

“ Q. What was the amount to be paid to these emigrants, upon the fulfilment of each of their jobs ?

“ A. Thirty pounds, of which one half could be earned during the winter season.

“ Q. Does this afford a fair prospect of maintaining them by their labour ?

“ A. Yes; and upon an average they receive about seven pounds in advance up to this season.

“ Q. Do you think that an honest and industrious emigrant, obtaining a job of this nature, and a lease upon share of the land cleared by him for a term of three years or more, would have a fair prospect of supporting his family, and becoming himself ultimately a landholder ?

“ A. Yes.

“ Q. I believe you are yourself an emigrant; and what country ?

“ A. Yes; I am from Scotland.

“ Q. How long have you been in this country; and how long have you been employed since your arrival here ?

“ A. I have been three years in this country in May last. I came out as a hired farm servant to John Neilson, Esq. of this city, and resided with him in that capacity from the time of my arrival to the month of September, 1819. Mr. Neilson, to oblige me, had previously sold to me, at a moderate rate, a farm at Valcartier (upon which there was no clearing), of three arpents in front, upon thirty in depth, where I now reside. I subsequently obtained from the Commissioners of the Jesuits' estates, in the month of November, 1819, in common with nine others, a lot of ground of three acres in front, by somewhat more than thirty acres in depth, in the fifth concession.

“ Q. Is this the same fifth concession which is mentioned in the statistical table which you laid before this Committee ?

“ A. Yes; and all the settlers, except one Canadian, are emigrants from Scotland and Ireland; five of them are Irishmen, four of them Scotchmen: they arrived here chiefly in the year 1818, and they have a fair prospect, by industry

and honesty, to become landholders, and to support their families with the produce of their farms\*.

“ Q. In what length of time does an able-bodied emigrant usually learn to chop wood and clear land, and build log houses and barns ?

“ A. In about three months.”

Ferdinand Murphy was also examined by the Committee, and said, “that he belonged to the south of Ireland, and came to Canada in the year 1821. He arrived in Quebec with his sister, and had only twenty-one shillings in money. He went to Valcartier, and chopped and cleared five acres of land, at the rate of three pounds per acre ; he had received an advance of provisions, clothes, and other necessities, amounting to about half the fifteen pounds he was to receive on having completed the job. In the spring he received the balance. Afterwards he took a farm of ninety acres on the Jesuits’ estates, cleared fifty-six acres, and in 1827 his crop was 946 bushels of potatoes, the produce of forty-seven bushels planted, 100 bushels of oats, 700 bundles† of hay, &c. &c. He now has the means of buying cattle, and living comfortably,” &c. &c.

This evidence will, I hope, suffice to convince my readers that an industrious emigrant, without any other assistance than his own activity, is able to settle upon a seigneurie ; and in which, possessing a lot of land of about two acres in breadth and forty or fifty in depth, and for which he pays an exceedingly small rent, say twelve or fifteen shillings, he can provide abundantly for his family at the end of three or four years. On the contrary, to obtain the same quantity of land in the townships, he must of necessity have a large sum of ready money, which, unfortunately, in the greater number of cases, is impossible. Two other objects, of the greatest importance in a new settlement, are also attained in a seigneurie,

\* The new settlements on Lake Beauport, in Stoneham, St. Patrick, and Port Neuf, are all in a flourishing state, and come in support of the statement made by Coughtrie.

† A bundle weighs eighteen pounds.

*viz.* a flour mill and a saw-mill; for not only is the seigneur obliged in, most cases, by law, but it is also for his own interest, to provide the inhabitants with the means of grinding their corn and constructing their houses; which cannot be done in a township till the population is sufficiently dense to pay the proprietor of the mill.

I must, however, allow that each tenure has advantages and disadvantages not possessed by the other; and that when a country is once settled, the tenure of *free and common soccage* is probably more advantageous; but that to form, with rapidity, new settlements, the tenure *en fief* gives to a poor man decided advantages. This, in Lower Canada, has been proved by experience.

A Bill for the encouragement of emigration passed in both Houses of the Provincial Parliament during the last session, and is one of those reserved for the approbation of His Majesty\*.

\* See Appendix, No. XV.

## CHAPTER VII.

### *Remedies Proposed.*

A CONVERSATION which occurred during the last meeting of the Imperial Parliament gives us reason to believe that, in the approaching session, some legislative measures will be proposed as a remedy for the evils which now, by all, are allowed to exist in the Canadian Government. For the purpose of contributing, as far as my humble abilities permit, to the desirable end of improvement, I will endeavour to point out the circumstances which, in my opinion, can alone bring about any beneficial result.

In every thing I shall here advance, one assumption will, throughout, be kept in view : I shall take it as incontrovertible, that the interests of England and Canada are identical ; that, to promote the welfare of Canada, will never be to oppose that of the mother country ; that what injures the former injures the latter ; that inasmuch as the welfare of Canada must be in jeopardy while the government is a bad one, it is for the interest of England that such government should not exist ; that existing, it should be reformed. If, therefore, by any observation, I hereafter prove an institution to be advantageous to the colony, as respects its government, I shall consider it useless to prove it useful, or not injurious, to England. It is the intention of England to provide for the good government of her colonies ; her aid to them is afforded partly for that purpose ; never for one opposed to it. A more bitter libel upon the justice of the mother

country could hardly be imagined, than to suppose the assumption here mentioned, unwarranted.

If the reader have carefully gone through the statements I have already made, and if he believe those statements to be true, he cannot have failed to perceive that there are two evils in the Canadian Government, both springing from the same source: the one being the hindrance to improvement, created by the discord existing among the various portions of the Legislature; the other, positive mischief that has been created by the conduct of one section of the Government. The discord and the positive mischief have had their immediate origin in the interests of the Executive Council; which interests have been rendered powerful to bad purposes, by the faulty composition of the Legislative Council.

From circumstances already explained, the Legislative Council has hitherto been almost entirely composed of persons holding the office of Executive Councillor. The Executive and Legislative Councils have, in fact, been shown to be two bodies differing in name, but identical as to the persons composing them. The immediate consequence of this arrangement has been, to give the Executive Council a power both over the conduct of the Governor and the deliberations of the Legislature; no desire of the Governor, however beneficial, could be carried into execution, when opposed to their wishes; no proposed enactment could receive the sanction of the Legislature, if contrary to their interests. For years this has continued; while the country was passive or powerless, misconduct in the acting members of the Government was the invariable result: when the country began to exercise the power in the Legislature, wisely conferred by the mother country, confusion, discord, and at length a complete stoppage of the whole working of the Government ensued.

These are the evils complained of—the circumstance here mentioned is the cause of those evils. Now, for the remedies.

It has been proposed to alter the composition of the

Legislative Council; to make it (like the House of Peers in England) the representation of the landed aristocracy. There is one fatal objection to this proposal: there is no landed aristocracy in Canada. The seigneurs are not entitled to that appellation; the rights they possess, hitherto, has conferred on them no political, no monied predominance; they are not richer—they are not more enlightened than some of the other portions of the community; their rights over the land are not so important as the rights of the tenants; they have not so great an interest in what concerns the land as the tenants who hold under them. If these be the material out of which to form this landed aristocracy, the greatest number of the seigneurs afford it not; we should rather take the vassals as the more eligible, but the vassals are too numerous. There is no reason for choosing one rather than another. The vassals, therefore, cannot properly be used for the purpose of erecting this nobility.

Suppose, however, that, in spite of these considerations, the seigneurs were constituted the Legislative Council, what would be the result? They either agree with the House of Assembly, or they do not; if they agree, what need is there for this cumbersome and expensive machinery? They possess no great wealth; they cannot, therefore, exercise that sort of influence over society and the government which wealth allows. Let not the world here believe that this body would be what its prototype is supposed to be—the encouragers of science; the creators of polished and elegant society; the supporters of the pleasure-creating arts: they, of necessity, would either be hard-working citizens, or be poorer than the rest of the educated community. Moreover, they would have precisely the same feelings, the same opinions as the House of Assembly; they would introduce no new element into the composition of the government; it would still be of the same materials, with this difference, it would be more clumsy and expensive. If we suppose this new Legislative Council opposed to the House of Assembly, what then would be the result? . Precisely the same discord as at present;

the same hindrance of business ; the same ill feeling and jealousy which now exist. The House of Assembly must for years, as at present constituted, represent the community. If the Legislative Council opposed the House, it would oppose the wishes of the community ; it could not possibly exercise any influence upon the elections ; in spite of all endeavours, the community would return whom they pleased, and thus discord would be insured under this supposition between two members of the Legislature.

As by this arrangement the council would be composed of hereditary members, the Government of England would find that they had added another difficulty to those now existing in ruling the colony ;—they would find that to all good purposes the council would be an untractable body. If the council differed from the House, it would be on account of its own interests, as opposed to that of the colony generally ; with this class the English Government would have nothing in common. The Government would therefore meet the council in constant opposition ; and meeting it thus, they would quickly learn, to their own cost, how unyielding an assembly they had unluckily created. The interests of England would, in the eyes of such an hereditary council, be a constant source of jealousy : the council would desire to be dominant—dominant for its own ends ; in this supremacy of rule they would fear and hate so powerful a participant as England ; their constant endeavour therefore would be, to rid themselves of this disagreeable compeer ; a constant scene of vexation, trouble, and retardment of business can easily be conceived as resulting from this proposed alteration.

If, however, it be proposed to render the council an assemblage of persons chosen for life at the will of the King ; and to render it imperative on the Executive to choose the members from the class of seigneurs, some persons may believe all the evils above mentioned to be completely obviated : such would not be the case. One of two sets of circumstances would occur : either the councillors would be kept in the government interest by obtaining the lucrative posts of the

country ; or being not so retained and being elected for life, they would be completely independent of the government of England.

Under the first supposition, the state of things would differ nothing from the present ; the government would, in fact, be in the hands, not of the English Ministry, but of a few grasping councillors. England would derive no benefit from the colony, more than at present ; she would be hated as the abettor of bad government, and stand in great danger of losing the colony for ever.

Under the second supposition, the council, being independent of the English ministry, would fall under one of the two states I had before supposed ; either being friends and coinciding with the House of Assembly—and then all the uselessness of the council, as then explained, would be manifest : or it would oppose the House, and then the mischievousness before pointed out would result from its establishment ; so that a Legislative Council, even under this last arrangement, is shown either to be useless or mischievous.

The alteration which I propose is, TO ABOLISH THE LEGISLATIVE COUNCIL, and to place the legislative powers in the House of Assembly and the Governor.

Let us discuss the objections to this proposal.

It is first objected, that it would be injurious to the interests of England.

To this it may be answered—1st. That if it be beneficial to the colony, it is but decent to consider it beneficial to England ; for if it be of use to the colony, but mischievous to England, the consequence that England is mischievous to the colony is but too manifest. This, however, is a supposition which I cannot for a moment entertain ; nor would those, I believe, who put this objection forward : they would not maintain it in so many words, but they constantly support the opinion by such statements as the present. England, however, cannot desire such advocacy, or ground *her* objections to the arrangement proposed upon such a plea. However, let us for an instant entertain the objection.

2nd. The interests of England, as connected with the colony, are usually supposed to consist—*first*, in the trade carried on with the colony; *secondly*, in the employment or salaries found in the colony for portions of the English people. How are either of these interests to be injured by the present arrangement?

As the trade can only be injured, as far as this alteration is concerned, by a supposed alteration in the laws regulating trade, we must believe that the Governor, who possesses a *veto* upon all laws, would coincide with the House in making these bad laws; that is, laws bad for England. But this is a monstrous supposition. The Governor is an Englishman invariably; he would possess the power, as at present, to delay or refuse his assent to any law; and we must believe him to have sufficient sense to perceive that a law does influence trade; and if he knows not what influence it may have, that he would be sufficiently prudent to send to England for instructions how to act. If he have not this prudence, he is a bad Governor; and the evil is not in the frame of the government, but the ill-advised conduct of the Ministry in sending out an incapable servant. In proposing laws, however—laws necessary from circumstances newly arisen—it may be said the Governor will be powerless; or if not powerless in proposing, he will be utterly incapable of getting them passed. Powerless, as to proposing laws, he would not be: by message, as at present, he might propose any measure; and as to passing laws, he and the Legislative Council are now equally weak. What assistance does he or the English Ministry derive, to this end, from a Legislative Council? They do not—they cannot forward a law through the House of Assembly at present. How then can any one believe that the government would, on this head be weaker than at present, supposing the council abolished? These observations apply to every law, whether regarding trade or any other matter; I will therefore now pass to the second consideration.

It may be said that the House of Assembly would abolish a large portion of the present offices in the colony, and thus

deprive the English people of the means of deriving support from their Canadian colony. It is somewhat remarkable how all the arguments of the pretended favourers of English interests invariably insinuate that the dominion of England is a mischievous dominion. In answer to this objection I ask, are the offices now existing necessary or not? If necessary, what reason has any one to believe that they would not be continued. The House of Assembly has hitherto preserved these offices, having always had the same power to abolish them as would be given to them by the proposed alteration. The House moreover is not entirely destitute of sense, and is as likely to perceive whether an office is or is not necessary without the assistance of a Legislative Council as with it. If, indeed, the offices are not necessary (and by the manner of those who make this objection, we are led to believe such to be their opinion), then they are continued by an evil influence, and for an evil end. The end being, according to these persons, to forward English interests; the consequence, that English interests are mischievous to the colony, is again thrust upon us. But, as before, I will not entertain such an insinuation; I will assume the offices to be necessary offices, and taking the past conduct of the Assembly as an example of its future behaviour, we may fairly assert that the offices being necessary will be continued. So much for the injury to be done to English interests.

Let us now see the benefits to be derived to the colony.

1. The first benefit will be, the ridding the colony of all the load of expense entailed by the mere existence of a double Legislative Assembly.
2. The second would be, the exclusion of all persons in the government, not really interested therein.
3. The third, the exclusion of such as are improperly interested.
4. The fourth, the prevention of discord between the different members of the government and the different classes of society.

Of the first benefit I need say nothing ; the matter is too obvious to need comment. The remainder need some explanation.

The exclusion of persons not really interested in the business of government is an important matter ; though not usually esteemed as highly as it deserves. A man not interested in any proceeding is generally, as regards that proceeding, an idle man ; he, by his idleness, delays its execution ; moreover, not having much interest in the consideration of questions arising, he takes not the due care to form opinions respecting them. He is also not desirous of having his opinion opposed or discussed, because trouble is thereby created. He thus usually forms wrong judgments, and is staunch in maintaining them, using, as his means of supporting his own doctrines, the strength of idleness—a dull, silent, dogged opposition. In the present Legislative Council there are some few members placed in this situation. They have little interest in the designs of the major part ; they are, therefore, not very actively mischievous, but generally, from mere habit, and sometimes from a species of sympathy, go with the prevailing party. On such questions as are really open questions, they act as I have described idle men usually to act ; not very solicitous whether they come to a right determination, but peculiarly stiff in that which they have first determined to hold. These are excrescences which it would be well to lop off.

The excluding from the Legislature persons who have a mischievous interest, is a benefit upon which I need not enlarge ; neither need I spend much time in endeavouring to show that such persons have existed, and do exist in the present Council. The whole preceding observations of this work have almost all tended to support this proposition : I can add nothing to what has already been advanced ; so that if I should now attempt a proof of the matter, I should merely repeat what has already been laid before the reader. It may, however, be well to observe, that this influence of mischievous interest over the determinations of the Legisla-

tive Councils has been the great source of the evils which have hitherto existed in the Canadian Government ; that to destroy the influence of such mischievous interest, is to destroy, in fact, the evils resulting from it ; that, in truth, the question at present is, not whether the measure I propose will destroy this evil, but whether, in so doing, other and greater evils may not necessarily arise. This question, I believe, I have already settled, by the answers given to objections raised upon the matter. One objection, however, remains, which deserves consideration, and which is usually advanced with no small degree of confidence by those who seek to maintain the present mischievous order of things. How, it is asked, are you to prevent discord from arising between the Governor and the House of Assembly, and creating all the mischiefs which now exist in consequence of hindrance to the business of government ? The answer is easy.

The present hindrance arises from an opposition existing among the members of the Legislature ; which opposition is created by a difference of interests in these two branches. It is the interest of one branch to permit the Executive Council to act without control ; to derive whatever wealth it possibly can from the country, without being subject to inspection or hindrance : it is the interest of the House of Assembly to prevent this. This difference of interests would not exist between the Governor and the House. The Governor is the representative of England, but England has interests identical with those of the colony ; and the interests of the colony are fairly represented by the House of Assembly\*. How then can discord arise between the Governor and the House. They may indeed take a different view of the same subject, merely from circumstances unconnected with interest ; but such differences seldom last long, and are not likely to create discord. Discussion must in the

\* If any person assert that the present representation is not a fair one, I answer, make any alteration therein which more nearly approximates to the perfect representation of the interests of every individual in the community. Of the composition of the House of Assembly I shall immediately speak.

end put an end to opposition in conclusions, where such opposition is the result solely of the understanding. Truth will eventually prevail over error, when error is not backed by interest.

It may be said, however, that the Governor will have precisely the same interest to derive wealth from the community as have the Legislative and Executive Councils; and that by this means discord will arise. This, again, is paying a bad compliment to English dominion. How does the Governor possess this interest more than other servants of the public? And how does it happen that, possessing such an evil interest, he has power to turn it to so bad a purpose as creating discord, and hindering the operations of the Government. In the case of the President of the United States, the same interest must exist; but he does not promote it. Why? Because he would thereby lose the good-will of the country, and would inevitably lose his situation: so with the Governor of Canada; he might possess the same interest, but he would not dare to forward it, because the wisdom and justice of the English Government would produce precisely the same effect as the self-interest of the people of the United States. The English Government would recall an officer who used his power to so bad a purpose. To assert that they would not do so, would be to assert, that the control of the English Ministry over their servant is inferior to the control of the United States people over their servant; it is, in fact, asserting, and that pretty broadly, that the Government of England is not so good a Government as the colony could institute if left to its own guidance; which is again a proposition I can by no means consent to entertain.

Having discussed the difficulties connected with this part of the subject, I will pass to the consideration of the composition of the House of Assembly.

Among the persons who call themselves Liberals, in Canada, there are two parties; one is composed of a few commercial men of wealth, who have had sufficient penetra-

tion to detect the evils of the present Government, to see that they themselves derive no benefit therefrom; they are therefore opposed to the present Government, and from this opposition are considered persons of liberal feelings. Existing evils pressing upon ourselves, though they make us join with true philanthropists, by no means make us philanthropists ourselves. The desire to benefit the country by opposition, and the desire to benefit our own individual interests, may lead to conduct in some cases similar, while opposition is alone concerned; but when remedies are to be proposed, when, after having pulled down, we are called upon to build up, the plans and behaviour of the merely selfish opposer, and his truly liberal compeer becomes widely different. Among his first class of opposers are to be numbered the party in Canada I have just mentioned; among the second class come the second party above alluded to, *viz.* such persons who are opposed to the Government, because they deem it injurious to the general welfare. Two parties thus existing—two parties having such different ends in view, though the means adopted by them have hitherto been the same, it is not to be wondered at, that their plans of reform should be widely dissimilar. The first party propose so to regulate the representation of the country, that a large portion of the members should be returned by persons connected with themselves in feelings and interests; the second party propose, that the representation of the country should, in fact, represent the whole people; and, as a means to this end, they propose, that of the population the greater number should have the greatest weight; that regulating the representation by the population, the French Canadians must of necessity be, from their numbers, the persons having the greatest sway in the House of Assembly. Nine-tenths of the people are French Canadians; and it is monstrous, say this second party, to give the last tenth an equal, or more than equal, share in the Government of the country. English interests, meaning thereby the interest of persons speaking English in the colony, ought not, say they, to be dominant; the first

party exclaim against this assertion, and when called upon to explain why they oppose so reasonable an opinion, they are obliged to confess, that they believe the English, that is, their own interests, to be of more worth than those of the remaining population; in other words, one-tenth of the population, possessing one-tenth of the whole property of the community, is to be set over and considered of more importance than the other nine-tenths. To state this monstrous proposition is to refute it.

What then, I may be asked, is the reform most desirable? My answer is, to make the representation of the people an hourly increasing representation; increasing with the increase of the population, and in precise proportion to that increase. Let this be done without reference to any party, to any sect, to any language. If ever it should happen that the majority of the people should be of English extraction, the same principles which now render it just for the French Canadians, being the majority, to be the dominant section, would then render it just that the English Canadians should possess the chief sway. Principles do not change, though our circumstances may; but men are too apt to use a just principle so long as it accords with their interests, and discard it so soon as it becomes inconvenient: and it is to be feared that many who now insist on the propriety of the major part of the interests of a country being the subject of major consideration, would, under different circumstances, turn round and desert their principle. I beseech my countrymen to let no man lead them into this error. That which is just for them to-day, will, under the same circumstances, be just for their neighbour to-morrow. The same principle which ought to govern the representation of the country now, ought to govern it a century hence: the greater number of interests ought to be the subject of greater consideration. They, however, who would induce the people to believe that the population, because differently descended, have different interests—are enemies to the people—are blind or dishonest guides. My countryman, who dwells in the

township of Godmanchester, has the same interest in good government that I have, who dwell upon the seigneurie of ———. He, like myself, wants justice cheap; wants perfect protection for his person and his property. He, like me, wants good schools and good roads; wise and frugal representatives. In short, he wants a good government—so do I. In what then do we differ? He, being an honest man, does not desire to plunder my house: I have no desire to plunder his. He does not wish to disturb me while worshipping according to my religion; I have no wish to interrupt his prayers. He, if honest, has no desire to make me his slave, to rule over me: I want not to rule over him. All I want, all he wants is, to be peaceful and undisturbed in our honest vocations. Let him not believe that deceitful, treacherous, pretended friend who would teach him any other doctrine. Let him live in good fellowship with his neighbour; and whether that neighbour be a French or Anglo-Canadian, so long as he is one of the people, let him be assured they both have precisely the same interests in common; that they are, in truth, members of the same community.

The House of Assembly last year acted upon this principle; and the reader, by turning to the Appendix (No. XV.), will there learn, that a fair representation was by them proposed, and the Bill, with few amendments from the Legislative Council, has passed through both Houses, and is one of those left for the approbation of His Majesty.\* To the House I would say, persevere in this honest course, and eventually you must succeed. A perfect representation is essential to the happiness of the great majority of the nation; and, as that nation's representatives, it is your duty to strive stedfastly for its attainment. To the government of England I say,—Abolish the Legislative Council, and you will have done all that is needed of you towards providing for the welfare of Canada.

\* It has since received the sanction of His Majesty.

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## **APPENDIX.**



# APPENDIX.

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## No. I.

### *The Saguenay Territory.*

FOR several reasons, which will appear in the sequel, I think it advantageous to lay before the public information respecting this important part of Lower Canada. To the Government at home, and to settlers, the subject may be properly regarded as one of considerable interest.

In latitude 48° 20' north, and 72° 30' west longitude, in the middle of the course of the river St. Lawrence, a little above the isle of Bic, where all vessels coming from Europe, or other parts of the world, can arrive without much danger, even without the aid of pilots, is situated an immense and deep river, called the Saguenay, which takes its principal source in the lake St. Jean, which much resembles the lakes so well known in Upper Canada. The mouth of the river Saguenay forms the harbour of Tadousac, wherein ships of the greatest burden can ride with perfect safety in the most tempestuous weather, owing to the high lands by which the harbour is surrounded, and which rise immediately from the water. As I am desirous of giving my readers a particular description of this portion of the country, hitherto most shamefully neglected, but which must, eventually, become of the highest political importance\*, I shall reserve whatever observations it may be requisite to make for the end of this article, and at present lay before them extracts of the evidence given by different persons before the Committee of the House of Assembly.

Lieutenant-Colonel Bouchette, Surveyor-General of the province, appeared before the Committee, and said:—

\* Different surveys have taken place this year which I have no doubt, when published, will thoroughly corroborate my statement.

" Lower Canada comprehends an extent of territory of 150,000 superficial miles; of that great superficies, not more than about 25,000 to 30,000 may be said to have been explored and tolerably known, and about one-half thereof actually surveyed; therefore, it appears that about four-fifths of Lower Canada remain unexplored and but little known, and even that is obtained from sketches and descriptions through travellers, traders, and aborigines of the soil—the Indians."

On referring to the most recent maps of Canada, it will be perceived, however, that numerous large rivers flowing towards the St. Lawrence, and taking their rise in the mountains which divide these waters from those which discharge themselves into Hudson's Bay, traverse an immense tract of country, the most considerable of which are the Saguenay, the St. Maurice, and the Grand, or Ottawa river. The Saguenay, which is navigable for large vessels to Chicoutimy, a distance of about ninety miles, and thence, for boats, to lake St. John, fertilizes in its course a wide expanse of country, by innumerable tributary streams and branches on either side, which should form a comparative view of the extent of territory fit for culture lying along the borders of the St. Lawrence; and its branches possess equal advantages in a proportional degree. The same may be said of the Ottawa, whose principal source rises in lake Temiskaming, traversing (to its confluence into the St. Lawrence) a space of country of about 300 miles. The river St. Maurice, although not so wide as either of the former, winds through as great a space of country as the Saguenay. Can it be doubted that, possessing such natural advantages, such exhaustless treasures, that any encouragement held out, with a view of colonizing that valuable tract of country, would fail in its object?

François Verrault appeared before the Committee, and said:—

" That he was sixty-five years old, and that, from the age of fifteen to last fall, he had remained in the Saguenay country; that the river Saguenay is twenty leagues from its mouth to Chicoutimy, as far as which place the tide extends; the general breadth of the river is three quarters of a league; that it is extremely deep until within three leagues of Chicoutimy."

On being asked what streams flowed into the Saguenay or into lake St. John, their length, breadth, depth, and course respectively, how far navigable, and what kind of fish were found in the Saguenay or in lake St. John, or in the streams which empty themselves into either, his answer was:—

" There are many: the river St. Marguerite, navigable for canoes through an extent of forty leagues, empties itself into the Saguenay, seven leagues from its mouth on the north side; the river L'Ance St. Jean, navigable for canoes fifteen leagues, empties itself into the Saguenay, on the south side, two leagues above the river St. Marguerite, L'Ance de la Trinité, the Baie des Ha, Ha, the river à Valin, all navigable to canoes, from twelve to fifty leagues, fall into the Saguenay; and many streams in which there is excellent salmon fishery.

The river Chicoutimy, where the port is situated, flows from the south, is eight arpents wide, and navigable for thirty leagues in canoes. Above the fort of Chicoutimy, the distance, as far as lake St. John, is thirty leagues, by

the Saguenay, which forms the outlet of that lake. The river Chicoutimy is formed by the lake *Tsinogomi* (long lake), seven leagues long; four rivers, navigable for canoes, empty themselves into this lake, and another into the Saguenay. At the distance of three-quarters of a league another lake is reached, joined by a smaller one and other rivers. Lake St. John is fourteen leagues long and fourteen wide; two leagues from a small river which empties itself into that lake, is a considerable river, navigable for canoes, thirty leagues, and is seven arpents wide; it is called *Metabitsiouan*, where there is a port.

"On the north side of lake St. John is the river *Péribonea* (the curious river); this name is given to that river because its water is clear, and game and fish abound there. It is navigable for canoes, and is situated twelve leagues from the outlet of lake St. John. Two leagues higher up is the river *Mistassini* (the large rock), navigable for forty leagues, at least; by this river, at least forty small lakes and carrying places are passed to reach lake Mistassini, which empties itself into Hudson's Bay: this lake is at least ninety leagues long, by sixty in breadth, and full of islands; some of these islands are large. Another lake, called *Yemiskaming* (very deep lake), leads towards the ports in the rear of Montreal, but where he had never travelled. In all the lakes and rivers fish abound, that is to say, pike, white fish (three feet long), salmon trout; he had taken some weighing forty-two pounds; another kind of trout, only found in lakes where the water is clear, the Indians called it *Matagouche* (which means the long fish), it is extremely fat, of excellent flavour, sometimes two or three feet long and eight inches thick; there is a great deal of *poisson doré*, *perchaudes*, carp of two kinds, white and red; he had seen red carp two feet and a half long, &c. &c.

"He had only been seventy leagues from Mistassini; the most common timber along the outlet is red spruce: there is also poplar, birch, and a great deal of swamp spruce.

"He had gone round twice to Three Rivers, by the Saguenay."

The description of his travelling would not be interesting to the generality of my readers, and therefore I will proceed at once to matters of more general importance. I must observe, however, that the number of lakes and rivers, apparently communicating or at very small distances from each other, mentioned by this witness and many others, is perfectly astonishing, and shows the necessity of exploring and settling, as soon as possible, a country where there seems to be so many natural and local advantages.

On being asked what was the nature of the soil, and when spring and winter began in the various parts through which he had travelled, his answer was:

"That the soil about Tadoussac was mere sand, and only fit for the culture of potatoes; on ascending the Saguenay, all the bays and the interior on both sides consisted of good soil, fit for cultivation; there was little difference between the climate of that place and that of Quebec; all sorts of pulse, and melons and cucumbers ripened there; towards Chicoutimy, the gentlemen of that part had gardens which produced cucumbers, melons, onions, and, in a word, every thing that was produced in Quebec; towards lake St. John, and all around it, the lands were excellent; the Jesuits formerly had

a convent and a farm there; some plum, apple, and cherry trees, and some vines planted by them, still exist, and the furrows made by the plough were to be discerned; the settlement is at the entrance of the river *Metabitsouan*; he had gone fifteen leagues up that river, and found the soil fine and very fit for cultivation, and the climate favourable; for twenty-five leagues, in ascending the rivers *Mistassini* and *Assuapmoussin*, which flow into lake *St. John*, the soil and climate were equally good, &c. &c. It was to be remarked that, although very often the margin of rivers of a certain magnitude did not admit of cultivation, upon removing a little from the shore, or upon passing the mountains which skirt those rivers, there was always found a level country, where the soil was fertile to a very great distance, and the soil along the small rivers, which empty themselves into the larger ones, was invariably good and fertile for a very great distance.

"From *Tadoussac* to the foot of the rapids *Pemonta*, for a tract of seventy-five leagues, there was a great quantity of lofty trees, consisting of white pine, red pine, ash, spruce of every kind, elm, black birch and maple, besides several other kinds of timber, as white birch, poplar, aspen, gray and red spruce, &c. &c."

On being asked, if these various timber could be brought, by the several streams he had mentioned, to some place where they might be shipped for exportation by the river *St. Lawrence*, his answer was:—

"That timber might be felled on the borders of several rivers which flow into lake *St. John* and lake *Tsinogomi*, which, if drifted along the shore of each of those rivers, would of themselves float to *Chicoutimy*, where vessels may come, and they might be shipped there."

According to this testimony, as well as that of many other persons, which testimony need not now be adduced, but can be found upon a reference to the Report, my readers will perceive, that the House of Assembly has omitted no pains to obtain every information possible respecting this part of the country, which, a short time after the discovery of Canada, seriously occupied the attention of the French government, and upon which the Jesuits formed establishments, the remains whereof are yet to be perceived. It is to be regretted, that for the trifling sum of from £1,000 to £1,200 per annum, all the north side of the river *St. Lawrence*, to the seigneurie *Mount Murray*, the property of Mr. *Fraser*, many leagues above the river *Saguenay*, has, under the title of the King's posts, together with a large part of the territory called *Saguenay* territory, been let for so long a period to some Scotch merchants, known under the name of the North-West Company; and it is also a matter of surprise, as well as of blame, that the Government, until Lord *Dalhousie's* visit to this section of the country, have voluntarily neglected to make inquiries as to this interesting district. Without wishing to enter into the causes of the dispute between Lord *Selkirk* and the North-West Company, we believe it right to say, that his Lordship's extraordinary enterprise to the Red River has had the effect of bringing to light circumstances, and destroying prejudices and interest, which have retarded the settlement of lands, the most eligible in the country for the reception of the surplus population of the mother country,

and of awakening the attention of the British Government upon a matter of the highest importance. That his plans were at first represented by certain interested persons as chimerical, need surprise no one: in spite of all opposition, however, he surmounted every obstacle, and, by his plan of colonization, destroyed the monopoly of the North-West Company\*; which monopoly exercised a pernicious influence over the welfare of the country, tending both to retard its advancement, and demoralize, if we believe the statement of his Lordship, its population. Lord Selkirk, by this hazardous enterprise, united his own and the public interest, and identified himself so much with the welfare of the Canadians, that his death was to them a subject of unfeigned regret. We have thought it requisite to mention this circumstance (*en passant*), in order to make the English public acquainted with the most distant causes which have retarded the settlement of the waste lands of the Crown; to give them also a more correct idea of the difficulties to be surmounted, the prejudices to be combated, and the private interests which are constantly found in opposition to the public welfare. This opposition has unfortunately been the lot of all the colonies; but it is to be hoped that, in time, the evils will become less, that the troubles will cease and animosities be appeased, and that a happy change will be effected by the judicious representations of enlightened persons.

We now return to the advantages possessed by the harbour of Tadoussac in a political point of view. I pass by the consideration of the advantages possessed by various other bays, even up to the river Chicoutimy, for the establishment of an agricultural population, which might quickly extend to lake St. John, and many other lakes in the same direction, and by this means facilitate the communication of the interior, and at length reach to Montreal and Upper Canada.

From the facility of its entrance, the river Saguenay ought to be considered as the key of Canada, for it cannot be doubted that a port which is situated thirty-six leagues below Quebec, and which can receive, with perfect ease and safety, vessels of the largest burden—to which vessels may sail without the assistance of a pilot, and which has the advantage over Quebec of being open one month earlier for navigation, must, in time, become a place of the highest consequence, not only in a commercial point, but also of the greatest political importance. In case of a sudden declaration of war by the United States, at a time when supplies could be sent from England by no other route, not even by New Brunswick, this port would be open, and all the necessary succours might be dispatched to any part of the country. All that is needed for this desirable object, is to form settlements at the mouth of the river Saguenay, and the inhabitants would quickly find the means of communicating with the capital, as well as with any other part of the country, in every season of the year. It is known that Quebec is not more than three days' journey distant from the settlement formerly established by the Jesuits on lake St. John, and

\* Since that period, the North-West Company have been obliged to come to terms with the rival company of the Hudson's Bay, and finally to unite with them.

that the reverend fathers were accustomed to carry on their communication, and even to pass cattle by this route. There are few places in Lower Canada which, all circumstances considered, offer greater advantages to the surplus population of the country, and the emigrants from Great Britain, than are possessed by the Saguenay territory. The fertility of the soil is equal to that of any other part of the country; and the fish of the various rivers and lakes would alone be sufficient to maintain the settlers, during the period they must necessarily wait for returns from their newly-cultivated lands.

We know that the English Government has received applications from individuals, offering, on reasonable terms, to buy lands in this part of the country, and that to these applications they have not paid the least attention; we nevertheless take the liberty of recommending this matter to their notice, as one deserving the most serious consideration.



## No. II.

### *Minerals and other Natural Productions of Canada.*

Messrs. Jackson and Alger have just given an excellent description of the mineralogy and geology of Nova Scotia, and I sincerely lament that it is not in my power to imitate their laudable endeavours; my knowledge, unfortunately, on these important subjects, is not sufficiently extended to enable me to attempt such a task: my present purpose is merely to direct attention, if possible, to the subject, to induce others actually to perform what I can only desire. There are few countries which offer a greater field to scientific research, or more deserving the attention of the natural philosopher, than the Canadas. That the people of the country have hitherto neglected to prosecute researches into such matters, need excite no surprise: education has, comparatively, made small advances among us: our endeavours hitherto have chiefly been directed to the attainment of the means of subsistence, and we have not yet arrived at that degree of wealth, in which the advancement of science becomes a business by which a man may live. We, however, are tending towards that state; and the pleasures derived from the acquirement of knowledge are becoming, in a greater degree, an object of desire among the more educated classes of the community. This change will operate in various ways, in directing the attention of all to the various products of our country, which hitherto have been unfortunately neglected. The sciences of mineralogy and geology have not been neglected, however, because deemed unimportant, but because no means of acquiring a knowledge of them has hitherto been within the reach of the Canadian youth. Institutions and professors are wanting; and without these it is difficult, almost impossible, to acquire any thing more than a very superficial knowledge, in matters where great tact and

experience are required to discover the facts upon which the science is built: we are, consequently, far behind the people of Europe. The study of chemistry has also been greatly neglected, and for the same reason. In botany, greater advances have been made; and the knowledge of the various properties of our indigenous plants is tolerably advanced. Ornithology, not indeed a very important branch of natural philosophy, but still a branch, has, through the activity of a young Canadian, M. Chasseur, made considerable progress. He has already made an exceedingly respectable collection of birds and some other animals, and thus made the first step towards forming a national museum of natural history.

It has been discovered by those who, from time to time, have made partial researches into the aspect of the country, that there exist mines of iron in abundance\*, and that they are almost always accompanied by mines of coal, of an excellent quality. Mines of copper, lead, and even of silver, have also been discovered. Quarries of slate and of marble, of granite, and other stone fit for building, are spread over the whole country. Some few precious stones are sometimes found; and in the district of Gaspé the white and red cornelian are frequently discovered.

The productions of our forests are too well known to need description; I will only observe, that vegetables of almost every description are there to be found; that tobacco is cultivated in the country with the greatest success; that the vine also for some years, being cultivated with care, has produced fruit of an excellent description, particularly in the district of Montreal; and that the grape of the indigenous vine, although a little acid, is not disagreeable, more especially after the first frosts of autumn.

Such part of the natural history of Canada as regards wild animals is that which hitherto has received the greatest attention, on account of the commercial advantages derived therefrom. The animals which are principally to be found in our woods are stags, elks, deer, bears, foxes, martens, wild cats, ferrets, weasels, squirrels, hares, and rabbits. The southern parts, in particular, breed great numbers of wild bulls, divers sorts of roebucks, goats, wolves, &c. The marshes, lakes, and pools with which this country abounds, swarm with otters and beavers, of which the white are highly valued. The commerce in these articles, however, though at present of importance, must of necessity take a second rank, when compared with other branches which must eventually arise. The productions of agriculture must, ultimately, be the staple commodities of the country; and even now the fisheries might, with care and attention, be made to yield a return far superior to any derived from the trade in peltries. The attention of the Government might well be directed to these matters; and probably would be so, if the disputes which have so long irritated the public, and checked improvement, were happily settled. The time, indeed, appears to have at length arrived when such a fortunate consummation may fairly be expected; and it will not be among the smallest of the benefits derived from this union, that our trade will be a matter of consideration to the Legislature.

\* At Three Rivers, a large iron foundry has been for years in existence.

## No. III.

*Historical and Descriptive Works.*

1 The best history of Canada extant is that by Father Charlevoix, a Jesuit, born at St. Quentin, in 1684, entitled "*Histoire Générale de la Nouvelle France*," in 3 vols. 4to.; or 6 vols. 12mo. *Paris*, 1744.

2 "A Topographical Description of the Province of Lower Canada; with Remarks upon Upper Canada, and on the relative Connection of both Provinces with the United States of America. By Joseph Bouchette, Esq., Surveyor General of Lower Canada," published in London, in 1815, is an excellent work, already well known in England and all parts of America. With the assistance of his maps, which are upon an extended scale, a person in this country, willing to go and settle in the colony, may find in that work the necessary information to guide him in the choice of a site\*.

3 "History of Canada, from its first Discovery to the Peace of 1763. By William Smith, Esq., Clerk of the Parliament, and Master in Chancery of the Province of Lower Canada." This work was printed in Quebec, in 1815, but did not appear till a few years afterwards. It has its merit, being well compiled, and I can easily believe, as he says himself, that his materials have been collected from the most authentic documents,—the colony records, the Jesuits' journals, and Charlevoix's history; but not so easily that he has shown no partiality or prejudice.

4. "Memoirs of the Administration of the Colonial Government of Lower Canada, from the Year 1807 to 1820, giving an Account of the late American War, and the Difficulties under which the late unfortunate Sir George Prevost was placed during his Administration. By Robert Christie, Esq., Law Clerk of the House of Assembly." These Memoirs were published in Quebec; they are very interesting, and, although intended to please the ruling power, impartially written.

"Les premiers Rudiments de la Constitution Britannique, traduits de l'Anglais de Mons. Brooke, précédés d'un Précis historique, et suivis d'Observations sur la Constitution du Bas-Canada," is an excellent little work, published in French by Jaques Labrie, Esq., M.P.P.—Montreal, 1827.

In 1828 appeared, "The Political Annals of Lower Canada, being a Review of the Political and Legislative History of that Province;" a work as full of information as it is of prejudice against the French Canadians. Several English travellers have given an account of the Canadas; but "Gray's Letters" are certainly the most correct I have seen, although not divested of prejudice.

\* A new Topographical Description of the province of Lower Canada, with an improved Map, upon a large scale, will shortly be published in London, by the same Author, under the sanction of the Provincial Government; and, as far as we have been able to judge, highly deserving the attention and the encouragement of the public.

## No. IV.

*Articles of Capitulation agreed on between Gen. TOWNSHEND  
and M. DE RAMSAY, Commander of Quebec.*

ARTICLE 1. M. De Ramsay demands the honour of war for his garrison, and that it shall be conducted back to the army in safety, by the shortest road, with their arms, baggage, six pieces of brass cannon, two mortars or howitzers, and twelve rounds. The garrison of the town, composed of land forces, marines, and sailors, shall march out with their arms and baggage, drums beating, lighted matches, with two pieces of cannon and twelve rounds; and shall be embarked as conveniently as possible, in order to be landed at the first port in France.

ART. 2. That the inhabitants shall be maintained in the possession of their houses, goods, effects, and privileges.

*Granted; provided they lay down their arms.*

ART. 3. That the said inhabitants shall not be molested on account of their having borne arms for the defence of the town, as they were forced to it, and as it is customary for the inhabitants of the colonies of both crowns to serve as militia.

*Granted.*

ART. 4. That the effects belonging to the absent officers, or inhabitants, shall not be touched.

*Granted.*

ART. 5. That the said inhabitants shall not be removed, nor obliged to quit their houses, until their condition shall be settled by a definitive treaty between their Most Christian and Britannic Majesties.

*Granted.*

ART. 6. That the exercise of the Catholic, Apostolic, and Roman religion shall be preserved, and that safeguards shall be granted to the houses of the clergy, and to the monasteries, particularly to the bishop of Quebec, who, animated with zeal for religion and charity for the people of his diocese, desires to reside constantly in it, to exercise freely and with that decency which his character and the sacred mysteries of the Catholic, Apostolic, and Roman religion require, his episcopal authority in the town of Quebec, whenever he shall think it proper, until the possession of Canada shall have been decided by a treaty between their Most Christian and Britannic Majesties. The free exercise of the Roman religion; safeguards granted to all religious persons, as well as to the bishop, who shall be at liberty to come and exercise freely, and with decency, the functions of his office, whenever he shall think proper, until the possession of Canada shall have been decided between their Britannic and Most Christian Majesties.

ART. 7. That the artillery and warlike stores shall be delivered up *bonâ fide*, and an inventory taken thereof.

*Granted.*

ART. 8. That the sick, wounded, commissaries, chaplains, physicians, surgeons, apothecaries, and other persons employed in the hospitals, shall be treated agreeable to the cartel settled between their Most Christian and Britannic Majesties, on the 6th of February, 1759.

*Granted.*

ART. 9. That before delivering up the gate and the entrance of the towns to the English forces, their General will be pleased to send some soldiers, to be placed as safeguards at the churches, convents, and chief habitations.

*Granted.*

ART. 10. That the commander of the city of Quebec shall be permitted to send advice to the Marquess de Vaudreuil, Governor-General, of the reduction of the town; as also this General shall be allowed to write to the French ministry, to inform them thereof.

*Granted.*

ART. 11. That the present capitulation shall be executed according to its form and tenor, without being liable to more execution, under pretence of reprisals, or the non-execution of any preceding capitulation.

*Granted.*

The present treaty has been made and settled between us, and duplicates signed at the camp before Quebec, the 18th day of September, 1759.

G. TOWNSHEND.  
DE RAMSAY.

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## No. V.

*Articles of Capitulation between his Excellency General AMHERST, Commander-in-Chief of His Britannic Majesty's Troops and Forces in North America, and his Excellency the Marquess DE VAUDREUIL, Grand Cross of the Royal and Military Order of St. Louis, Governor and Lieutenant-General for the King in Canada.*

ARTICLE 1. Twenty-four hours after the signing of the present capitulation, the English General shall cause the troops of His Britannic Majesty to take possession of the gates of the town of Montreal; and the English garrison shall not come into the place till after the French troops shall have evacuated it.

*The whole garrison of Montreal must lay down their arms; and shall not serve during the present war. Immediately after the signing of the present capitulation, the King's troops shall take possession of the gates, and shall post the guards necessary to preserve good order in the town.*

ART. 2. The troops and the militia, who are in garrison in the town of Montreal, shall go out by the gate of ———, with all the honours of war, six pieces of cannon, and one mortar, which shall be put on board the vessel where the Marquess de Vaudreuil shall embark, with ten rounds for each piece: the same shall be granted to the garrison of Trois Rivières, as to the honours of war.

ART. 3. The troops and militia who are in garrison in the fort of Jacques Cartier, and in the island of St. Helen, and other forts, shall be treated in the same manner, and shall have the same honours; and these troops shall go to Montreal, or Trois Rivières, or Quebec, to be there embarked for the first sea-port in France, by the shortest way. The troops who are in our posts situated on our frontiers, on the side of Acadia, at Detroit, Michilimackinac, and other posts, shall enjoy the same honours, and be treated in the same manner.

*All these troops are not to serve during the present war, and shall likewise lay down their arms. The rest is granted.*

ART. 4. The militia, after being come out of the above towns, forts, and ports, shall return to their homes without being molested, on any pretence whatever, on account of their having carried arms.

*Granted.*

ART. 5. The troops who keep the field shall raise their camp and march, drums beating, with their arms, baggage, and artillery, to join the garrison of Montreal; and shall be treated in every respect the same.

*These troops, as well as the others, must lay down their arms.*

ART. 6. The subjects of His Britannic Majesty, and of His Most Christian Majesty, soldiers, militia, or seamen, who shall have deserted or left the service of their sovereign, and carried arms in North America, shall be, on both sides, pardoned for their crime; they shall be respectively returned to their country: if not, each shall remain where he is, without being sought after or molested.

*Refused.*

ART. 7. The magazines, the artillery, firelocks, sabres, ammunition of war, and, in general, every thing that belongs to His Most Christian Majesty, as well in the towns of Montreal and Trois Rivières, as in the forts and posts mentioned in the third article, shall be delivered up, according to exact inventories, to the commissaries who shall be appointed to receive the same, in the name of His Britannic Majesty. Duplicates of the said inventories shall be given to the Marquess de Vaudreuil.

*This is every thing that can be asked on this article.*

ART. 8. The officers, soldiers, militia, seamen, and even the Indians, detained on account of their wounds, or sickness, as well in the hospital as in

private houses, shall enjoy the privileges of the cartel, and be treated accordingly.

*The sick and wounded shall be treated the same as our own people.*

ART. 9. The English General shall engage to send back to their own homes the Indians and Morisians who make part of his armies, immediately after the signing of the present capitulation; and, in the mean time, in order to prevent all disorders on the part of those who may not be gone away, the said General shall give safeguards to such persons as shall desire them, as well in the town as in the country.

*The first part refused.—There never has been any cruelties committed by the Indians of our army; and good order shall be preserved.*

ART. 10. His Britannic Majesty's General shall be answerable for all disorders on the part of his troops, and shall oblige them to pay the damages they may do, as well in the towns as in the country.

*Answered by the preceding Article.*

ART. 11. The English General shall not oblige the Marquess de Vaudreuil to leave the town of Montreal before the ———; and no person shall be lodged in his house till he is gone. The Chevalier Levis, commander of the land forces; the principal officers and majors of the land forces and of the colony troops, the engineers, officers of the artillery, and commissary of war, shall also remain at Montreal till the said day, and shall keep their lodgings there. The same shall be observed with regard to M. Bigot, intendant, the commissaries of marines, and writers, whom the said M. Bigot shall have occasion for, and no person shall be lodged at the intendant's house, before he shall be gone.

*The Marquess de Vaudreuil, and all those gentlemen shall be masters of their houses, and shall embark when the King's ships shall be ready to sail for Europe, and all possible conveniencies shall be granted them.*

ART. 12. The most convenient vessel that can be found shall be appointed to carry the Marquess de Vaudreuil, by the straitest passage, to the first seaport in France. The necessary accommodation shall be made for him, the Marquess de Vaudreuil, M. de Rigaud, Governor of Montreal, and suite of this General. The vessel shall be properly victualled at the expense of His Britannic Majesty; and the Marquess de Vaudreuil shall take with him his papers, without their being examined; and his equipages, plate, baggage, and also those of his suite.

*Granted: except the archives which shall be necessary for the government of the country.*

ART. 13. If, before or after the embarkation of the Marquess de Vaudreuil, news of peace should arrive, and that by the treaty Canada should remain to His Most Christian Majesty, the Marquis de Vaudreuil shall return to Quebec or Montreal, every thing shall return to its former state under the dominion of His Most Christian Majesty, and the present capitulation shall become null and of no effect.

*Whatever the King may have done on this subject shall be obeyed.*

ART. 14. Two ships shall be appointed to carry to France Chevalier de Lévis, the principal officers, and the staff of the land forces, the engineers, officers of artillery, and their suite. These vessels shall likewise be victualled, and the necessary accommodations provided in them. The said officers shall take with them their papers, without being examined, and also their equipages and baggage. Such of the said officers as shall be married shall have liberty to take with them their wives and children, who shall also be victualled.

*Granted: except that the Marquess de Vendreuil and all the officers, of whatever rank they may be, shall faithfully deliver up to us all the charts and plans of the country.*

ART. 15. A vessel shall also be appointed for the passage of M. Bigot, the intendant, with his suite; in which vessel the proper accommodation shall be made for him, and the persons he shall take with him. He shall likewise embark with him his papers which shall not be examined, his equipages, plate, and baggage, and those of his suite. This vessel shall also be victualled as before mentioned.

*Granted: with the same reserve as in the preceding Article.*

ART. 16. The English General shall also order the necessary and most convenient vessels to carry to France M. de Longueuil, Governor of Trois Rivières, the staff of the colony, and the commissary of the marine; they shall embark therein their families, servants, baggage, and equipages; and they shall be properly victualled during the passage, at the expense of His Britannic Majesty.

*Granted.*

ART. 17. The officers and soldiers, as well of the land forces as of the colony, and also the marine officers and seamen, who are in the colony, shall be likewise embarked for France, and sufficient and convenient vessels shall be appointed for them. The land and sea officers who shall be married shall take with them their families, and all of them shall have liberty to embark their servants and baggage. As to the soldiers and seamen, those who are married shall take with them their wives and children, and all of them shall embark with their havresacks and baggage. These vessels shall be properly and sufficiently victualled at the expense of His Britannic Majesty.

*Granted.*

ART. 18. The officers, soldiers, and all the followers of the troops who shall have their baggage in the fields, may send for it before they depart without hindrance or molestation.

*Granted.*

ART. 19. An hospital ship shall be provided by the English General, for such of the wounded and sick officers, soldiers, and seamen, as shall be in a condition to be carried to France, and shall likewise be victualled at the expense of his Britannic Majesty.

It shall be the same with regard to the other wounded and sick officers, soldiers and sailors, as soon as they shall be recovered. They shall be at liberty to carry with them their wives, children, servants, and baggage, and the said soldiers and sailors shall not be solicited nor forced to enter into the service of His Britannic Majesty.

*Granted.*

ART. 20. A commissary and one of the King's writers shall be left to take care of the hospitals, and of whatever may relate to the service of His Most Christian Majesty.

*Granted.*

ART. 21. The English General shall also provide ships for carrying to France the officers of the Supreme Council of Justice, Police, Admiralty, and all other officers having commissions or brevets from His Most Christian Majesty, for them, their families, servants, and equipages, as well as for the other officers; and they shall likewise be victualled at the expense of His Britannic Majesty. They shall, however, be at liberty to stay in the colony, if they think proper, to settle their affairs, or to withdraw to France whenever they think fit.

*Granted: but if they have papers relating to the government of the country they are to be delivered to us.*

ART. 22. If there are any military officers whose affairs should require their presence in the colony till next year, they shall have liberty to stay in it, after having obtained the permission of the Marquess de Vaudreuil for that purpose, and without being reputed prisoners of war.

*All those whose private affairs shall require their stay in the country, and who shall have the Marquess de Vaudreuil's leave for so doing, shall be allowed to remain till their affairs are settled.*

ART. 23. The commissary for the King's provisions shall be at liberty to stay in Canada till next year, in order to be enabled to answer the debts he has contracted in the colony, on account of what he has furnished; but if he should prefer to go to France this year, he shall be obliged to leave, till next year, a person to transact his business. This private person shall preserve and have liberty to carry off all his papers without being inspected; his clerks shall have leave to stay in the colony or to go to France; and, in this last case, a passage and subsistence shall be allowed them on board the ships of His Britannic Majesty, for them, their families, and their baggage.

*Granted.*

ART. 24. The provisions, and other kind of stores, which shall be found in the magazines of the commissary, as well in the town of Montreal and of Trois Rivières as in the country, shall be preserved to him, the said provisions belonging to him and not to the King, and he shall be at liberty to sell them to the French or to the English.

*Every thing that is actually in the magazines, destined for the use of the troops, is to be delivered to the English commissary for the King's forces.*

ART. 25. A passage to France shall likewise be granted on board of His Britannic Majesty's ships, as well as victuals, to such officers of the India company as shall be willing to go thither, and they shall take with them their families, servants, and baggage. The chief agent of the said company, in case he should choose to go to France, shall be allowed to leave such person as he shall think proper till next year, to settle the affairs of the said company, and to recover such sums as are due to them. The said chief agent shall keep possession of all the papers belonging to the said company, and they shall not be liable to inspection.

*Granted.*

ART. 26. The said company shall be maintained in the property of the ecarlatines and castors which they may have in the town of Montreal; they shall not be touched under any pretence whatever, and the necessary facilities shall be given to the chief agent to send, this year, his castors to France, on board his Britannic Majesty's ships, paying the freight on the same footing as the English would pay it.

*Granted, with regard to what may belong to the company or to private persons; but if His Most Christian Majesty has any share in it, that must become the property of the King.*

ART. 27. The free exercise of the Catholic, Apostolic, and Roman religion, shall subsist entire, in such manner, that all the states, and the people of the towns and countries, places and distant posts, shall continue to assemble in the churches, and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly.

These people shall be obliged, by the English Government, to pay to the priests, the tithes and all the taxes they were used to pay under the government of His Most Christian Majesty.

*Granted, as to the free exercise of their religion,—the obligation of paying the tithes to the priests, will depend on the King's pleasure\*.*

ART. 28. The chapter, priests, curates, and missionaries, shall continue, with an entire liberty, the exercise and functions of their cures, in the parishes of the towns and countries.

*Granted.*

ART. 29. The grand vicars, named by the chapter to administer to the diocese during the vacancy of the episcopal see, shall have liberty to dwell in the towns or country parishes, as they shall think proper; they shall, at all times, be free to visit the different parishes of the diocese with the ordinary ceremonies, and exercise all the jurisdiction which they exercised under the French dominion; they shall enjoy the same rights in case of death of the future bishop, of which mention will be made in the following article.

*Granted, except what regards the following article.*

ART. 30. If by the treaty of peace Canada should remain in the power of His Britannic Majesty, His Most Christian Majesty shall continue to name the bishop of the colony, who shall always be of the Roman communion, and under whose authority the people shall exercise the Roman religion.

*Refused.*

ART. 31. The bishop shall, in case of need, establish new parishes, and provide for the rebuilding of his cathedral and his episcopal palace; and, in the mean time, he shall have the liberty to dwell in the towns or parishes, as

\* There is no compulsion resorted to by the priests in the payment of tithes at present in Canada, although we are not certain that they could not put in force the *Edict du Conseil Supérieur de Quebec* in 1706, sanctioned by the King in 1707, wherein they are entitled to the twenty-sixth bushel of all kind of grain. It cannot be expected, however, that they can or will perform their various duties without some remuneration, and those who refuse to comply to certain established regulations in the different parishes are, of course, excluded from the pale of the church. Like all other priesthood, they are exceedingly jealous of their rights.

he shall judge proper—he shall be at liberty to visit his diocese with the ordinary ceremonies, and exercise all the jurisdiction which his predecessors exercised under the French dominion, save that an oath of fidelity, or a promise to do nothing contrary to His Britannic Majesty's service, may be required of him.

*This Article is comprised under the foregoing.*

ART. 32. The communities of nuns shall be preserved in their constitutions and privileges; they shall continue to observe their rules; they shall be exempted from lodging any military; and it shall be forbid to trouble them in their religious exercises, or to enter their monasteries. Safeguards shall even be given them, if they desire them.

*Granted.*

ART. 33. The preceding article shall likewise be executed with regard to the communities of Jesuits and Recolets, and of the house of priests of St. Sulpice, at Montreal. These last, and the Jesuits, shall preserve their right to nominate to certain curacies and missions as heretofore.

*Refused, till the King's pleasure be known.*

ART. 34. All the communities and all the priests shall preserve their movables, the property and revenues of the seignories, and other estates which they possess in the colony, of what nature soever they be, and the same estates shall be preserved in their privileges, rights, honours, and exemptions.

*Granted.*

ART. 35. If the canons, priests, missionaries, the priests of the seminary of the foreign missions, and of St. Sulpice, as well as the Jesuits and the Recolets, choose to go to France, a passage shall be granted them in His Britannic Majesty's ships; and they shall all have leave to sell in whole or in part the estates and movables which they possess in the colonies, either to the French or to the English, without the least hindrance or obstacle from the British Government. They may take with them, or send to France, the produce of what nature soever it be, of the said goods sold, paying the freight, as mentioned in the twenty-sixth article; and such of the said priests who choose to go this year shall be victualled, during the passage; at the expense of His Britannic Majesty, and shall take with them their baggage.

*They shall be masters to dispose of their estates, and to send the produce thereof, as well as their persons and all that belongs to them, to France.*

ART. 36. If by the treaty of peace Canada remains to His Britannic Majesty, all the French, Canadians, Acadians, merchants, and other persons, who choose to retire to France, shall have leave to do so from the English General, who shall procure them a passage. And, nevertheless, if from this time to that decision, any French or Canadian merchants, or other persons, shall desire to go to France, they shall likewise have leave from the English General. Both the one and the other shall take with them their families, servants, and baggage.

*Granted.*

ART. 37. The lords of manors, the military and civil officers, the Canadians,

as well in the towns as in the country, the French, settled, or trading in the whole extent of the colony of Canada, and all other persons whatsoever, shall preserve the entire peaceable property and possession of their goods, noble and ignoble, movable and immovable merchandizes, furs, and other effects, even their ships; they shall not be touched, nor the least damage done to them, on any pretence whatsoever. They shall have liberty to keep, let, or sell them, as well to the French as to the English, to take away the produce of them in bills of exchange, furs, specie, or other returns, whenever they shall judge proper to go to France, paying their freight, as in the twenty-sixth article.

They shall also have the furs which are in the posts above, and which belong to them, and may be on the way to Montreal. And for this purpose they shall have leave to send this year, or the next, canoes, fitted out, to fetch such of the said furs as shall have remained in those posts.

*Granted, as in the twenty-sixth Article.*

ART. 38. All the people who have left Acadia, and who shall be found in Canada, including the frontiers of Canada, on the side of Acadia, shall have the same treatment as the Canadians, and shall enjoy the same privileges.

*The King is to dispose of his ancient subjects; in the mean time they shall enjoy the same privileges as the Canadians.*

ART. 39. None of the Canadians, Acadians, or French, who are now in Canada, and on the frontiers of the colony, on the side of Acadia, Detroit, Michilimakinac, and other places and ports of the countries above, the married and unmarried soldiers remaining in Canada, shall be carried or transported into the English colonies, or to old England, and they shall not be troubled for having carried arms.

*Granted; except with regard to the Acadians.*

ART. 40. The savages, or Indian allies of His Most Christian Majesty, shall be maintained in the lands they inhabit, if they choose to remain there; they shall not be molested on any pretence whatsoever, for having carried arms, and served His Most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their missionaries; the actual vicars-general and the bishop, when the episcopal see shall be filled, shall have leave to send them new missionaries, when they shall judge it necessary.

*Granted, except the last Article, which has been already refused.*

ART. 41. The French, Canadians, and Acadians, of what state and condition soever, who shall remain in the colony, shall not be forced to take arms against His Most Christian Majesty or his allies, directly or indirectly, on any occasion whatsoever: the British Government shall only require of them an exact neutrality.

*They become subjects of the King.*

ART. 42. The French and Canadians shall continue to be governed according to the custom of Paris, and the laws and usages established for this country; and they shall not be subject to any other imposts than those which were established under the French dominion.

*Answered by the preceding Articles, and particularly by the last.*

ART. 43. The papers of the Government shall remain, without exception, in the power of the Marquess de Vaudreuil, and shall go to France with him. These papers shall not be examined on any pretence whatsoever.

*Granted, with the reserve already made.*

ART. 44. The papers of the intendency, of the offices of comptroller of the marine, of the ancient and new treasurers of the King's magazines, of the office of the revenues, and forges of St. Maurice, shall remain in the power of M. Bigot, the intendant, and they shall be embarked for France in the same vessel with him. These papers shall not be examined.

*The same as to this Article.*

ART. 45. The registers and other papers of the Supreme Council of Quebec, of the *prevosté* and admiralty of the said city, those of the royal jurisdiction of Trois Rivières and of Montreal, those of the seigneurial jurisdiction of the colony, the minutes of the acts of the notaries of the towns and of the countries, and, in general, the acts and other papers that may serve to prove the fortunes of the citizens, shall remain in the colony, in the rolls of the jurisdictions on which these papers depend.

*Granted.*

ART. 46. The inhabitants and merchants shall enjoy all the privileges of trade, under the same favours and conditions granted to the subjects of His Britannic Majesty, as well in the countries above as in the interior of the colony.

*Granted.*

ART. 47. The negroes and panis of both sexes shall remain in their quality of slaves, in the possession of the French and Canadians to whom they belong; they shall be at liberty to keep them in their service in the colony, or to sell them, and they may also continue to bring them up in the Roman religion.

*Granted; except those who shall have been made prisoners.*

ART. 48. The Marquess de Vaudreuil, the general and staff officers of the land forces, the governors and staff officers of the different places of the colony, the military and civil officers, and all other persons who shall leave the colony, or who are already absent, shall have leave to name and appoint attorneys to act for them, and in their name, in the administration of their effects, movable and immovable, until the peace. And if, by the treaty between the two crowns, Canada does not return under the French dominions, these officers or other persons, or attorneys for them, shall have leave to sell their manors, houses, and other estates, their movables and effects, &c., and to carry away, or send to France, the produce, either in bills of exchange, specie, furs, or other returns, as is mentioned in the thirty-seventh article.

*Granted.*

ART. 49. The inhabitants and other persons, who shall have suffered any damage in their goods, movable or immovable, which remained at Quebec, under the faith of the capitulation of that city, may make their representations to the British Government, who shall render them due justice against the person to whom it shall belong.

*Granted.*

ART. 50 and last. The present capitulation shall be inviolably executed in all its articles, and *bonâ fide* on both sides, notwithstanding any infraction and any other pretence with regard to the preceding capitulations, and without making use of reprisals.

*Granted.*

P. S. ART. 51. The English General shall engage, in case any Indians remain after the surrender of this town, to prevent their coming into the towns; and that they do not in any manner insult the subjects of His Most Christian Majesty.

*Care shall be taken, that the Indians do not insult any of the subjects of His Most Christian Majesty.*

ART. 52. The troops and other subjects of His Most Christian Majesty, who are to go to France, shall be embarked, at latest, fifteen days after the signing of the present capitulation.

*Answered by the eleventh Article.*

ART. 53. The troops and other subjects of His Most Christian Majesty, who are to go to France, shall remain lodged and encamped in the town of Montreal and other posts which they now occupy, till they shall be embarked for their departure. Passports, however, shall be granted to those who shall want them, for the different places of the colony, to take care of their affairs.

*Granted.*

ART. 54. All the officers and soldiers of the troops in the service of France who are prisoners in New England, and who were taken in Canada, shall be sent back as soon as possible to France, where their ransom or exchange shall be treated of agreeable to the cartel; and if any of these officers have affairs in Canada, they shall have leave to come there.

*Granted.*

ART. 55. As to the officers of the militia, the militia, and the Acadians, who are prisoners in New England, they shall be sent back to their own countries.

Done at Montreal, the 8th of September, 1760.

VAUDREUIL.

*Granted, except what regards the Acadians.*

Done in the camp before Montreal, the 8th of September, 1760.

JEFF. AMHERST.

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## No. VI.

14th GEO. III., Cap. 83.

*An Act for making more effectual Provision for the Government of the Province of Quebec in North America.*

Whereas His Majesty, by his royal proclamation, bearing date the seventh day of October, in the third year of his reign, thought fit to declare the provision which had been made in respect to certain countries, territories, and islands in America, ceded to His Majesty by the definitive treaty of peace, concluded at Paris on the tenth day of February, one thousand seven hundred and sixty-three: And whereas, by the arrangements made by the said royal proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left, without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries: may it therefore please your Most Excellent Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all the territories, islands, and countries in North America, belonging to the crown of Great Britain, bounded on the south by a line from the bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river St. Lawrence; from thence up the eastern bank of the said river to the lake Ontario; thence through the lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said province, until the said western boundary strike the Ohio; but in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said province of Pennsylvania, and thence, by a right line, to the said north-western angle of the said province; and thence along the western boundary of the said province, until it strike the river Ohio; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of

the territory granted to the merchants adventurers of England trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to, and made part and parcel of the province of Quebec, as created and established by the said royal proclamation of the seventh of October, one thousand seven hundred and sixty-three.

Provided always, that nothing herein contained, relative to the boundary of the province of Quebec, shall in anywise affect the boundaries of any other colony.

Provided always, and be it enacted, that nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any right, title, or possession, derived under any grant, conveyance, or otherwise howsoever, of or to any lands within the said province, or the provinces thereto adjoining; but that the same shall remain and be in force, and have effect, as if this Act had never been made.

And whereas the provisions, made by the said proclamation, in respect to the civil government of the said province of Quebec, and the powers and authorities given to the Governor and other civil officers of the said province, by the grants and commissions issued in consequence thereof, have been found, upon experience, to be inapplicable to the state and circumstances of the said province, the inhabitants whereof amounted, at the conquest, to above sixty-five thousand persons professing the religion of the church of Rome, and enjoying an established form of constitution and system of laws, by which their persons and property had been protected, governed, and ordered, for a long series of years, from the first establishment of the said province of Canada; be it therefore further enacted by the authority aforesaid, that the said proclamation, so far as the same relates to the said province of Quebec, and the commission under the authority whereof the government of the said province is at present administered, and all and every the ordinance and ordinances made by the Governor and Council of Quebec for the time being, relative to the civil government and administration of justice in the said province, and all commissions to judges and other officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the first day of May, one thousand seven hundred and seventy-five.

And, for the more perfect security and ease of the minds of the inhabitants of the said province, it is hereby declared, that His Majesty's subjects, professing the religion of the church of Rome, of and in the said province of Quebec, may have, hold, and enjoy, the free exercise of the religion of the church of Rome, subject to the King's supremacy, declared and established by an Act, made in the first year of the reign of Queen Elizabeth, over all the dominions and countries which then did, or thereafter should belong, to the imperial crown of this realm; and that the clergy of the said church may hold, receive, and enjoy, their accustomed dues and rights, with respect to such persons only as shall profess the said religion.

Provided nevertheless, that it shall be lawful for His Majesty, his heirs or successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant clergy within the said province, as he or they shall, from time to time, think necessary and expedient.

Provided always, and be it enacted, that no person, professing the religion of the church of Rome, and residing in the said province, shall be obliged to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth, or any other oaths substituted by any other Act in the place thereof; but that every such person who by the said statute is required to take the oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following oath before the Governor, or such other person in such court of record as His Majesty shall appoint, who are hereby authorized to administer the same; videlicet,

*I, A. B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to His Majesty King George, and him will defend to the utmost of my power, against all traitorous conspiracies and attempts whatsoever, which shall be made against his person, crown, and dignity; and I will do my utmost endeavour to disclose and make known to His Majesty, his heirs and successors, all treasons, and traitorous conspiracies, and attempts, which I shall know to be against him, or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any power or person whomsoever to the contrary.*

*So help me God.*

And every such person, who shall neglect or refuse to take the said oath before mentioned, shall incur and be liable to the same penalties, forfeitures, disabilities, and incapacities, as he would have incurred and been liable to for neglecting or refusing to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth.

And be it further enacted by the authority aforesaid, that all His Majesty's Canadian subjects within the province of Quebec, the religious orders and communities only excepted, may also hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other their civil rights, in as large, ample, and beneficial manner, as if the said proclamation, commissions, ordinances, and other acts and instruments, had not been made, and as may consist with their allegiance to His Majesty, and subjection to the Crown and Parliament of Great Britain; and that in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the courts of justice, to be appointed within and for the said province, by His Majesty, his heirs and successors, shall, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they shall be varied or altered by any ordinances that shall, from time to time, be passed in the said

province by the Governor, Lieutenant-Governor, or Commander-in-Chief, for the time being, by and with the advice and consent of the Legislative Council of the same, to be appointed in manner hereinafter mentioned.

Provided always, that nothing in this Act contained shall extend, or be construed to extend, to any lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, his heirs and successors, to be holden in free and common soccage.

Provided also, that it shall and may be lawful to and for every person that is owner of any lands, goods, or credits, in the said province, and that has a right to alienate the said lands, goods, or credits, in his or her life-time, by deed of sale, gift, or otherwise, to devise or bequeath the same at his or her death, by his or her last will and testament; any law, usage, or custom, heretofore or now prevailing in the province to the contrary hereof in anywise notwithstanding; such will being executed, either according to the laws of Canada, or according to the forms prescribed by the laws of England.

And whereas the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants, from an experience of more than nine years, during which it has been uniformly administered; be it therefore further enacted by the authority aforesaid, that the same shall continue to be administered, and shall be observed as law in the province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial; and the punishments and forfeitures thereby inflicted to the exclusion of every other rule of criminal law, or mode of proceeding thereon, which did or might prevail in the said province before the year of our Lord one thousand seven hundred and sixty-four; anything in this Act to the contrary thereof in any respect notwithstanding; subject nevertheless to such alterations and amendments as the Governor, Lieutenant-Governor, or Commander-in-Chief for the time being, by and with the advice and consent of the Legislative Council of the said province, hereafter to be appointed, shall, from time to time, cause to be made therein, in manner hereinafter directed.

And whereas it may be necessary to ordain many regulations for the future welfare and good government of the province of Quebec, the occasions of which cannot not now be foreseen, nor, without much delay and inconvenience, be provided for, without intrusting that authority, for a certain time, and under proper restrictions, to persons resident there: and whereas it is at present inexpedient to call an Assembly; be it therefore enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs and successors, by warrant under his or their signet or sign manual, and with the advice of the Privy Council, to constitute and appoint a Council for the affairs of the province of Quebec, to consist of such persons resident there, not exceeding twenty-three, nor less than seventeen, as His Majesty, his heirs and successors, shall be pleased to appoint; and, upon the death, removal, or absence, any of the members of the said Council in like manner to constitute and appoint such and so many other person or persons as shall be necessary to supply the vacancy or vacancies; which Council, so appointed and nominated, or the

major part thereof, shall have power and authority to make ordinances for the peace, welfare, and good government of the said province, with the consent of His Majesty's Governor, or in his absence of the Lieutenant-Governor, or Commander-in-Chief for the time being.

Provided always, that nothing in this Act contained shall extend to authorize or empower the said Legislative Council to lay any taxes or duties within the said province, such rates and taxes only excepted as the inhabitants of any town or district within the said province may be authorized by the said Council to assess, levy, and apply, within the said town or district, for the purpose of making roads, erecting and repairing public buildings, or for any other purpose respecting the local convenience and economy of such town or district.

Provided also, and be it enacted by the authority aforesaid, that every ordinance so to be made, shall, within six months, be transmitted by the Governor, or in his absence by the Lieutenant-Governor, or Commander-in-Chief for the time being, and laid before His Majesty for his royal approbation; and if His Majesty shall think fit to disallow thereof, the same shall cease and be void from the time that His Majesty's order in Council thereupon shall be promulgated at Quebec.

Provided also, that no ordinance touching religion, or by which any punishment may be inflicted greater than fine or imprisonment for three months, shall be of any force or effect, until the same shall have received His Majesty's approbation.

Provided also, that no ordinance shall be passed at any meeting of the Council where less than a majority of the whole Council is present, or at any time except between the first day of January and the first day of May, unless upon some urgent occasion, in which case every member thereof resident at Quebec, or within fifty miles thereof, shall be personally summoned by the Governor, or in his absence by the Lieutenant-Governor, or Commander-in-Chief for the time being, to attend the same.

And be it further enacted by the authority aforesaid, that nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, his heirs and successors, by his or their letters patent under the great seal of Great Britain, from erecting, constituting, and appointing such courts of criminal, civil, and ecclesiastical jurisdiction within and for the said province of Quebec, and appointing, from time to time, the judges and officers thereof, as His Majesty, his heirs and successors, shall think necessary and proper for the circumstances of the said province.

Provided always, and it is hereby enacted, that nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said province of Quebec, any Act or Acts of the Parliament of Great Britain heretofore made, for prohibiting, restraining, or regulating, the trade or commerce of His Majesty's colonies and plantations in America; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said colonies and plantations, shall be, and are hereby declared to be, in force within the said province of Quebec, and every part thereof.

## No. VII.

31st GEO. III., Cap. 31.

*An Act to repeal certain Parts of an Act, passed in the fourteenth Year of His Majesty's Reign, intituled "An Act for making more effectual Provision for the Government of the Province of Quebec, in North America; and to make further Provision for the Government of the said Province."*

1. Whereas an Act was passed in the fourteenth year of the reign of His present Majesty, intituled, "An Act for making more effectual provision for the government of the province of Quebec in North America:" and whereas the said Act is in many respects inapplicable to the present condition and circumstances of the said province: and whereas it is expedient and necessary that further provision should now be made for the good government and prosperity thereof: may it therefore please your Most Excellent Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that so much of the said Act as in any manner relates to the appointment of a Council for the affairs of the said province of Quebec, or to the power given by the said Act to the said Council, or to the major part of them, to make ordinances for the peace, welfare, and good government of the said province, with the consent of His Majesty's Governor, Lieutenant-Governor, or Commander-in-Chief for the time being, shall be, and the same is hereby repealed.

2. And whereas His Majesty has been pleased to signify, by his message to both Houses of Parliament, his royal intention to divide his province of Quebec into two separate provinces, to be called the province of Upper Canada, and the province of Lower Canada; be it enacted by the authority aforesaid, that there shall be within each of the said provinces respectively a Legislative Council, and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said provinces respectively His Majesty, his heirs or successors, shall have power, during the continuance of this Act, by and with the advice and consent of the Legislative Council and Assembly of such provinces respectively, to make laws for the peace, welfare, and good government thereof, such laws not being repugnant to this Act; and that all such laws, being passed by the Legislative Council and Assembly of either of the said provinces respectively, and assented to by His Majesty, his heirs or successors, or assented to in His Majesty's name,

by such person as His Majesty, his heirs or successors, shall from time to time appoint to be the Governor, or Lieutenant-Governor, of such province, or by such person as His Majesty, his heirs or successors, shall from time to time appoint to administer the government within the same, shall be, and the same are hereby declared to be, by virtue of and under the authority of this Act, valid and binding to all intents and purposes whatever, within the province in which the same shall have been so passed.

3. And be it further enacted, by the authority aforesaid, that for the purpose of constituting such Legislative Council as aforesaid in each of the said provinces respectively, it shall and may be lawful for His Majesty, his heirs or successors, by an instrument under his or their sign manual, to authorize and direct the Governor or Lieutenant-Governor, or person administering the government in each of the said provinces respectively, within the time hereinafter mentioned, in His Majesty's name, and by an instrument under the great seal of such province, to summon to the said Legislative Council, to be established in each of the said provinces respectively, a sufficient number of discreet and proper persons, being not fewer than seven, to the Legislative Council for the province of Upper Canada, and not fewer than fifteen to the Legislative Council for the province of Lower Canada; and that it shall also be lawful for His Majesty, his heirs or successors, from time to time, by an instrument under his or their sign manual, to authorize and direct the Governor or Lieutenant-Governor, or person administering the government in each of the said provinces respectively, to summon to the Legislative Council of such province, in like manner, such other person or persons as His Majesty, his heirs or successors, shall think fit; and that every person who shall be so summoned to the Legislative Council of either of the said provinces respectively, shall thereby become a member of such Legislative Council to which he shall have been so summoned.

4. Provided always, and be it enacted by the authority aforesaid, that no person shall be summoned to the said Legislative Council, in either of the said provinces, who shall not be of the full age of twenty-one years, and a natural-born subject of His Majesty, or a subject of His Majesty naturalized by Act of the British Parliament, or a subject of His Majesty, having become such by the conquest and cession of the province of Canada.

5. And be it further enacted by the authority aforesaid, that every member of each of the said Legislative Councils shall hold his seat therein for the term of his life, but subject nevertheless to the provisions hereinafter contained for vacating the same, in the cases hereinafter specified.

6. And be it further enacted by the authority aforesaid, that whenever His Majesty, his heirs or successors, shall think proper to confer upon any subject of the crown of Great Britain, by letters patent under the great seal of either of the said provinces, any hereditary title of honour, rank, or dignity of such province, descendible according to any course of descent limited in such letters patent, it shall and may be lawful for His Majesty, his heirs or successors, to annex thereto, by the said letters patent, if His Majesty, his heirs or successors, shall so think fit, an hereditary right of being summoned to the

Legislative Council of such province, descendible according to the course of descent so limited with respect to such title, rank, or dignity; and that every person on whom such right shall be so conferred, or to whom such right shall severally so descend, shall thereupon be entitled to demand from the Governor, Lieutenant-Governor, or person administering the government of such province, his writ of summons to such Legislative Council, at any time after he shall have attained the age of twenty-one years, subject nevertheless to the provisions hereinafter contained.

7. Provided always, and be it further enacted by the authority aforesaid, that when and so often as any person to whom such hereditary right shall have descended, shall, without the permission of His Majesty, his heirs or successors, signified to the Legislative Council of the province by the Governor, Lieutenant-Governor, or person administering the government there, have been absent from the said province for the space of four years continually, at any time between the date of his succeeding to such right and the time of his applying for such writ of summons, if he shall have been of the age of twenty-one years or upwards at the time of his so succeeding, or at any time between the date of his attaining the said age and the time of his so applying, if he shall not have been of the said age at the time of his so succeeding; and also when and so often as any such person shall at any time, before his applying for such writ of summons, have taken any oath of allegiance or obedience to any foreign prince or power, in every such case such person shall not be entitled to receive any writ of summons to the Legislative Council by virtue of such hereditary right, unless His Majesty, his heirs or successors, shall at any time think fit, by instrument under his or their sign manual, to direct that such person shall be summoned to the said Council; and the Governor, Lieutenant-Governor, or person administering the government in the said provinces respectively, is hereby authorized and required, previous to granting such writ of summons to any person so applying for the same, to interrogate such person upon oath touching the said several particulars, before such Executive Council as shall have been appointed by His Majesty, his heirs or successors, within such province, for the affairs thereof.

8. Provided also, and be it further enacted by the authority aforesaid, that if any member of the Legislative Councils of either of the said provinces respectively shall leave such province, and shall reside out of the same for the space of four years continually, without the permission of His Majesty, his heirs or successors, signified to such Legislative Council by the Governor or Lieutenant-Governor, or person administering His Majesty's Government there, or for the space of two years continually, without the like permission, or the permission of the Governor, Lieutenant-Governor, or person administering the government of such province, signified to such Legislative Council in the manner aforesaid; or if any such member shall take any oath of allegiance or obedience to any foreign prince or power, his seat in such Council shall thereby become vacant.

9. Provided also, and be it further enacted by the authority aforesaid, that in every case where a writ of summons to such Legislative Council shall have

been lawfully withheld from any person to whom such hereditary right as aforesaid shall have descended, by reason of such absence from the province as aforesaid, or of his having taken an oath of allegiance or obedience to any foreign prince or power; and also in every case where the seat in such Council of any member thereof, having such hereditary right as aforesaid, shall have been vacated by reason of any of the causes hereinbefore specified, such hereditary right shall remain suspended during the life of such person, unless His Majesty, his heirs or successors, shall afterwards think fit to direct that he be summoned to such Council; but that on the death of such person such right, subject to the provisions herein contained, shall descend to the person who shall next be entitled thereto, according to the course of descent limited in the letters patent by which the same shall have been originally conferred.

10. Provided also, and be it further enacted by the authority aforesaid, that if any member of either of the said Legislative Councils shall be attainted for treason in any court of law within any of His Majesty's dominions, his seat in such Council shall thereby become vacant, and any such hereditary right as aforesaid then vested in such person, or to be derived to any other persons through him, shall be utterly forfeited and extinguished.

11. Provided also, and be it further enacted by the authority aforesaid, that whenever any question shall arise respecting the right of any person to be summoned to either of the said Legislative Councils respectively, or respecting the vacancy of the seat in such Legislative Council of any person having been summoned thereto, every such question shall, by the Governor or Lieutenant-Governor of the province, or by the person administering the government there, be referred to such Legislative Council, to be by the said Council heard and determined; and that it shall and may be lawful either for the person desiring such writ of summons, or respecting whose seat such question shall have arisen, or for His Majesty's Attorney-General of such province in His Majesty's name, to appeal from the determination of the said Council, in such case, to His Majesty, in his Parliament of Great Britain; and that the judgment thereon of His Majesty, in his said Parliament, shall be final and conclusive to all intents and purposes whatever.

12. And be it further enacted by the authority aforesaid, that the Governor or Lieutenant-Governor of the said provinces respectively, or the person administering His Majesty's government therein respectively, shall have power and authority from time to time, by an instrument under the great seal of such province, to constitute, appoint, and remove the Speakers of the Legislative Councils of such provinces respectively.

13. And be it further enacted by the authority aforesaid, that, for the purpose of constituting such Assembly as aforesaid, in each of the said provinces respectively, it shall and may be lawful for His Majesty, his heirs or successors, by an instrument under his or their sign manual, to authorize and direct the Governor or Lieutenant-Governor, or person administering the government in each of the said provinces respectively, within the time hereinafter mentioned, and thereafter, from time to time, as occasion shall require,

in His Majesty's name, and by an instrument under the great seal of such province, to summon and call together an Assembly in and for such province.

14. And be it further enacted by the authority aforesaid, that, for the purpose of electing the members of such Assemblies respectively, it shall and may be lawful for His Majesty, his heirs or successors, by an instrument under his or their sign manual, to authorize the Governor or Lieutenant-Governor of each of the said provinces respectively, or the person administering the government therein, within the time hereinafter mentioned, to issue a proclamation dividing such province into districts, or counties, or circles, and towns or townships, and appointing the limits thereof, and declaring and appointing the number of representatives to be chosen by each of such districts, or counties, or circles, and towns or townships respectively; and that it shall also be lawful for His Majesty, his heirs or successors, to authorize such Governor or Lieutenant-Governor, or person administering the government, from time to time, to nominate and appoint proper persons to execute the office of returning officer in each of the said districts, or counties, or circles, and towns or townships respectively; and that such division of the said provinces into districts, or counties, or circles, and towns or townships, and such declaration and appointment of the number of representatives to be chosen by each of the said districts, or counties, or circles, and towns or townships respectively, and also such nomination and appointment of returning officers in the same, shall be valid and effectual to all the purposes of this Act, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors.

15. Provided nevertheless, and be it further enacted by the authority aforesaid, that the provision hereinbefore contained, for empowering the Governor, Lieutenant-Governor, or person administering the government of the said provinces respectively, under such authority as aforesaid from His Majesty, his heirs or successors, from time to time, to nominate and appoint proper persons to execute the office of returning officer in the said districts, counties, circles, and towns or townships, shall remain and continue in force in each of the said provinces respectively, for the term of two years, from and after the commencement of this Act, within such province, and no longer; but subject, nevertheless, to be sooner repealed or varied by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors.

16. Provided always, and be it further enacted by the authority aforesaid, that no person shall be obliged to execute the said office of returning officer for any longer time than one year, or oftener than once, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors.

17. Provided also, and be it enacted by the authority aforesaid, that the whole number of members to be chosen in the province of Upper Canada shall not be less than sixteen, and that the whole number of members to be chosen in the province of Lower Canada shall not be less than fifty.

18. And be it further enacted by the authority aforesaid, that writs for the election of members to serve in the said Assemblies respectively shall be issued by the Governor, Lieutenant-Governor, or person administering His Majesty's government within the said provinces respectively, within fourteen days after the sealing of such instrument as aforesaid for summoning and calling together such Assembly, and that such writs shall be directed to the respective returning officers of the said districts, or counties, or circles, and towns or townships, and that such writs shall be made returnable within fifty days at farthest from the day on which they shall bear date, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors; and that writs shall in like manner and form be issued for the election of members in the case of any vacancy which shall happen by the death of the person chosen, or by his being summoned to the Legislative Council of either province, and that such writs shall be made returnable within fifty days at farthest from the day on which they shall bear date, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors; and that in the case of any such vacancy which shall happen by the death of the person chosen, or by reason of his being so summoned as aforesaid, the writ for the election of a new member shall be issued within six days after the same shall be made known to the proper office for issuing such writs of election.

19. And be it further enacted by the authority aforesaid, that all and every the returning officers so appointed as aforesaid, to whom any such writs as aforesaid shall be directed, shall, and they are hereby authorized and required duly to execute such writs.

20. And be it further enacted by the authority aforesaid, that the members for the several districts, or counties, or circles of the said provinces respectively, shall be chosen by the majority of votes of such persons as shall severally be possessed, for their own use and benefit, of lands or tenements within such district, or county, or circle, as the case shall be, such lands being by them held in freehold, or in fief, or in roture, or by certificate derived under the authority of the Governor and Council of the province of Quebec, and being of the yearly value of forty shillings sterling, or upwards, over and above all rents and charges payable out of or in respect of the same; and that the members for the several towns or townships within the said provinces respectively shall be chosen by the majority of votes of such persons as either shall severally be possessed, for their own use and benefit, of a dwelling house and lot of ground in such town or township, such dwelling house and lot of ground being by them held in like manner as aforesaid, and being of the yearly value of five pounds sterling, or upwards, or, as having been resident within the said town or township for the space of twelve calendar months next before the date of the writ of summons for the election, shall *bonâ fide* have paid one year's rent for the dwelling house in which they shall have so resided, at the rate of ten pounds sterling per annum, or upwards.

21. Provided always, and be it further enacted by the authority aforesaid,

that no person shall be capable of being elected a member to serve in either of the said Assemblies, or of sitting or voting therein, who shall be a member of either of the said Legislative Councils to be established as aforesaid in the said two provinces, or who shall be a minister of the church of England, or a minister, priest, ecclesiastic, or teacher, either according to the rites of the church of Rome, or under any other form or profession of religious faith or worship.

22. Provided also, and be it further enacted by the authority aforesaid; that no person shall be capable of voting at any election of a member to serve in such Assembly, in either of the said provinces, or of being elected at any such election, who shall not be of the full age of twenty-one years, and a natural-born subject of His Majesty, or a subject of His Majesty naturalized by Act of the British Parliament, or a subject of His Majesty, having become such by the conquest and cession of the province of Canada.

23. And be it also enacted by the authority aforesaid, that no person shall be capable of voting at any election of a member to serve in such Assembly, in either of the said provinces, or of being elected at any such election, who shall have been attainted for treason or felony in any court of law within any of His Majesty's dominions, or who shall be within any description of persons disqualified by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors.

24. Provided also, and be it further enacted by the authority aforesaid, that every voter, before he is admitted to give his vote at any such election, shall, if required by any of the candidates, or by the returning officer, take the following oath, which shall be administered in the English or French language, as the case may require:—

*I, A. B., do declare and testify, in the presence of Almighty God, that I am, to the best of my knowledge and belief, of the full age of twenty-one years, and that I have not voted before at this election.*

And that every such person shall also, if so required as aforesaid, make oath, previous to his being admitted to vote, that he is, to the best of his knowledge and belief, duly possessed of such lands and tenements, or of such a dwelling-house and lot of ground, or that he has *bonâ fide* been so resident, and paid such rent for his dwelling-house, as entitles him, according to the provisions of this Act, to give his vote at such election for the county, or district, or circle, or for the town or township for which he shall offer the same.

25. And be it further enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor or Lieutenant-Governor, or person administering the government within each of the said provinces respectively, to fix the time and place of holding such elections, giving not less than eight days' notice of such time, subject nevertheless to such provisions as may hereafter be made in these respects by any Act of the Legislative Council and Assembly of the province, assented to by His Majesty, his heirs or successors.

26. And be it further enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor or Lieutenant-Governor of each of the said provinces respectively, or the person administering the government therein, to fix the places and times of holding the first and every other session of the Legislative Council and Assembly of such province, giving due and sufficient notice thereof, and to prorogue the same from time to time, and to dissolve the same, by proclamation or otherwise, whenever he shall judge it necessary or expedient.

27. Provided always, and be it enacted by the authority aforesaid, that the said Legislative Council and Assembly, in each of the said provinces, shall be called together once at the least in every twelve calendar months, and that every Assembly shall continue for four years from the day of the return of the writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved by the Governor or Lieutenant-Governor of the province, or person administering His Majesty's government therein.

28. And be it further enacted by the authority aforesaid, that all questions which shall arise in the said Legislative Councils or Assemblies respectively, shall be decided by the majority of voices of such members as shall be present; and that in all cases where the voices shall be equal, the Speaker of such Council or Assembly, as the case shall be, shall have a casting voice.

29. Provided always, and be it enacted by the authority aforesaid, that no member, either of the Legislative Council or Assembly, in either of the said provinces, shall be permitted to sit or to vote therein until he shall have taken and subscribed the following oath, either before the Governor or Lieutenant-Governor of such province, or person administering the government therein, or before some person or persons authorized by the said Governor or Lieutenant-Governor, or other person as aforesaid, to administer such oath, and that the same shall be administered in the English or French language, as the case may require.

*I, A. B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to His Majesty King George, as lawful Sovereign of the Kingdom of Great Britain, and of these Provinces dependant on and belonging to the said Kingdom; and that I will defend him to the utmost of my power against all traitorous conspiracies and attempts whatever, which shall be made against his person, crown, and dignity; and that I will do my utmost endeavour to disclose and make known to His Majesty, his heirs or successors, all treasons and traitorous conspiracies and attempts which I shall know to be against him, or any of them: and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or power whatever to the contrary.*

*So help me God.*

30. And be it further enacted by the authority aforesaid, that whenever any Bill which has been passed by the Legislative Council, and by the House of Assembly, in either of the said provinces respectively, shall be presented,

for His Majesty's assent, to the Governor or Lieutenant-Governor of such province, or to the person administering His Majesty's government therein, such Governor or Lieutenant-Governor, or person administering the government; shall, and he is hereby authorized and required to declare, according to his discretion, but subject nevertheless to the provisions contained in this Act, and to such instructions as may from time to time be given in that behalf by His Majesty, his heirs or successors, that he assents to such Bill in His Majesty's name, or that he withholds His Majesty's assent from such Bill, or that he reserves such Bill for the signification of His Majesty's pleasure thereon.

31. Provided always, and be it further enacted by the authority aforesaid, that whenever any Bill, which shall have been so presented for His Majesty's assent to such Governor, Lieutenant-Governor, or person administering the government, shall, by such Governor, Lieutenant-Governor, or person administering the government, have been assented to in His Majesty's name, such Governor, Lieutenant-Governor, or person as aforesaid, shall, and he is hereby required, by the first convenient opportunity, to transmit to one of His Majesty's principal Secretaries of State an authentic copy of such Bill so assented to; and that it shall and may be lawful, at any time within two years after such Bill shall have been so received by such Secretary of State, for His Majesty, his heirs or successors, by his or their order in Council, to declare his or their disallowance of such Bill; and that such disallowance, together with a certificate, under the hand and seal of such Secretary of State, testifying the day on which such Bill was received as aforesaid, being signified by such Governor, Lieutenant-Governor, or person administering the government, to the Legislative Council and Assembly of such province, or by proclamation, shall make void and annul the same, from and after the date of such signification.

32. And be it further enacted by the authority aforesaid, that no such Bill, which shall be so reserved for the signification of His Majesty's pleasure thereon, shall have any force or authority within either of the said provinces respectively, until the Governor or Lieutenant-Governor, or person administering the government, shall signify, either by speech or message, to the Legislative Council and Assembly of such province, or by proclamation, that such Bill has been laid before His Majesty in Council, and that His Majesty has been pleased to assent to the same; and that an entry shall be made, in the journals of the said Legislative Council, of every such speech, message, or proclamation; and a duplicate thereof, duly attested, shall be delivered to the proper officer, to be kept amongst the public records of the province; and that no such Bill, which shall be so reserved as aforesaid, shall have any force or authority within either of the said provinces respectively, unless His Majesty's assent thereto shall have been so signified as aforesaid, within the space of two years from the day on which such Bill shall have been presented for His Majesty's assent to the Governor, Lieutenant-Governor, or person administering the government of such province.

33. And be it further enacted by the authority aforesaid, that all laws,

statutes, and ordinances, which shall be in force on the day to be fixed in the manner hereinafter directed for the commencement of this Act, within the said provinces, or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority, and effect, in each of the said provinces respectively, as if this Act had not been made, and as if the said province of Quebec had not been divided; except in so far as the same are expressly repealed or varied by this Act, or in so far as the same shall or may hereafter, by virtue of and under the authority of this Act, be repealed or varied by His Majesty, his heirs or successors, by and with the advice and consent of the Legislative Councils and Assemblies of the said provinces respectively, or in so far as the same may be repealed or varied by such temporary laws or ordinances as may be made in the manner hereinafter specified.

34. And whereas by an ordinance passed in the province of Quebec, the Governor and Council of the said province were constituted a court of civil jurisdiction, for hearing and determining appeals in certain cases therein specified, be it further enacted by the authority aforesaid, that the Governor, or Lieutenant-Governor, or person administering the government of each of the said provinces respectively, together with such executive Council as shall be appointed by His Majesty for the affairs of such province, shall be a court of civil jurisdiction, within each of the said provinces respectively, for hearing and determining appeals within the same, in the like cases, and in the like manner and form, and subject to such appeal therefrom, as such appeals might before the passing of this Act have been heard and determined by the Governor and Council of the province of Quebec; but subject nevertheless to such further or other provisions as may be made in this behalf, by any Act of the Legislative Council and Assembly of either of the said provinces respectively, assented to by His Majesty, his heirs or successors.

35. And whereas, by the above-mentioned Act, passed in the fourteenth year of the reign of his present Majesty, it was declared, that the clergy of the Church of Rome, in the province of Quebec, might hold, receive, and enjoy their accustomed dues and rights, with respect to such persons only as should profess the said religion; provided nevertheless, that it should be lawful for His Majesty, his heirs or successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant clergy within the said province, as he or they should from time to time think necessary and expedient: and whereas by His Majesty's royal instructions, given under His Majesty's royal sign manual on the third day of January, in the year of our Lord, one thousand seven hundred and seventy-five, to Guy Carleton, esquire, now Lord Dorchester, at that time His Majesty's Captain-General and Governor-in-Chief in and over His Majesty's province of Quebec, His Majesty was pleased, amongst other things, to direct, "that no incumbent professing the religion of the church of Rome, appointed to any parish in the said province, should be entitled to receive any tithes for lands or possessions occupied by a Protestant, but that such tithes should be received by

such persons as the said Guy Carleton, esquire, His Majesty's Captain-General and Governor-in-Chief in and over His Majesty's said province of Quebec, should appoint, and should be reserved in the hands of His Majesty's Receiver-General of the said province, for the support of a Protestant clergy in His Majesty's said province, to be actually resident within the same, and not otherwise, according to such directions as the said Guy Carleton, esquire, His Majesty's Captain-General and Governor-in-Chief in and over His Majesty's said province, should receive from His Majesty in that behalf; and that in like manner all growing rents and profits of a vacant benefice should, during such vacancy, be reserved for and applied to the like uses:" and whereas His Majesty's pleasure has likewise been signified to the same effect in His Majesty's royal instructions, given in like manner to Sir Frederick Haldimand, knight of the most honourable Order of the Bath, late His Majesty's Captain-General and Governor-in-Chief in and over His Majesty's said province of Quebec; and also in His Majesty's royal instructions, given in like manner to the said Right Honourable Guy Lord Dorchester, now His Majesty's Captain-General and Governor-in-Chief in and over His Majesty's said province of Quebec; be it enacted by the authority aforesaid, that the said declaration and provision contained in the said above-mentioned Act, and also the said provision so made by His Majesty in consequence thereof, by his instructions above recited, shall remain and continue to be of full force and effect in each of the said two provinces of Upper Canada and Lower Canada respectively, except in so far as the said declaration or provisions respectively, or any part thereof, shall be expressly varied or repealed by any Act or Acts which may be passed by the Legislative Council and Assembly of the said provinces respectively, and assented to by His Majesty, his heirs or successors, under the restriction hereinafter provided.

36. And whereas His Majesty has been graciously pleased, by message to both Houses of Parliament, to express his royal desire to be enabled to make a permanent appropriation of lands in the said provinces, for the support and maintenance of a Protestant clergy within the same, in proportion to such lands as have been already granted within the same by His Majesty: and whereas His Majesty has been graciously pleased, by his said message, further to signify his royal desire, that such provision may be made, with respect to all future grants of land within the said provinces respectively, as may best conduce to the due and sufficient support and maintenance of a Protestant clergy within the said provinces, in proportion to such increase as may happen in the population and cultivation thereof: therefore, for the purpose of more effectually fulfilling His Majesty's gracious intentions as aforesaid, and of providing for the due execution of the same in all time to come, be it enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor or Lieutenant-Governor of each of the said provinces respectively, or the person administering the government therein, to make, from and out of the lands of the Crown within such provinces, such allotment and appropriation of lands, for the support and maintenance of a Protestant clergy within the same, as may bear a due

proportion to the amount of such lands within the same as have at any time been granted by or under the authority of His Majesty: and that whenever any grant of lands within either of the said provinces shall hereafter be made, by or under the authority of His Majesty, his heirs or successors, there shall at the same time be made, in respect of the same, a proportionable allotment and appropriation of lands for the above-mentioned purpose, within the township or parish to which such lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as circumstances will admit; and that no such grant shall be valid or effectual unless the same shall contain a specification of the lands so allotted and appropriated, in respect of the lands to be thereby granted; and that such lands, so allotted and appropriated, shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted.

37. And be it further enacted by the authority aforesaid, that all and every the rents, profits, or emoluments, which may at any time arise from such lands so allotted and appropriated as aforesaid, shall be applicable solely to the maintenance and support of a Protestant clergy within the province in which the same shall be situated, and to no other use or purpose whatever.

38. And be it further enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor or Lieutenant-Governor of each of the said provinces respectively, or the person administering the government therein, from time to time, with the advice of such Executive Council as shall have been appointed by His Majesty, his heirs or successors, within such province, for the affairs thereof, to constitute and erect, within every township or parish which now is or hereafter may be formed, constituted, or erected within such province, one or more parsonage or rectory, or parsonages or rectories, according to the establishment of the church of England; and from time to time, by an instrument under the great seal of such province, to endow every such parsonage or rectory with so much or such part of the lands so allotted and appropriated as aforesaid, in respect of any lands within such township or parish, which shall have been granted subsequent to the commencement of this Act, or of such lands as may have been allotted and appropriated for the same purpose, by or in virtue of any instruction which may be given by His Majesty, in respect of any lands granted by His Majesty before the commencement of this Act, as such Governor, Lieutenant-Governor, or person administering the government shall, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances of such township or parish.

39. And be it further enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor, Lieutenant-Governor, or person administering the government of each of the said provinces respectively, to present to every such parsonage or rectory an incumbent or minister of the church of England, who shall have been duly ordained according to the rites of the said church, and to supply

from time to time such vacancies as may happen therein; and that every person so presented to any such parsonage or rectory, shall hold and enjoy the same, and all rights, profits, and emoluments thereunto belonging or granted, as fully and ample, and in the same manner, and on the same terms and conditions, and liable to the performance of the same duties, as the incumbent of a parsonage or rectory in England.

40. Provided always, and be it further enacted by the authority aforesaid, that every such presentation of an incumbent or minister to any such parsonage or rectory, and also the enjoyment of any such parsonage or rectory, and of the rights, profits, and emoluments thereof, by any such incumbent or minister, shall be subject and liable to all rights of institution, and all other spiritual and ecclesiastical jurisdiction and authority, which have been lawfully granted by His Majesty's royal letters patent to the Bishop of Nova Scotia, or which may hereafter, by His Majesty's royal authority, be lawfully granted or appointed to be administered and executed within the said provinces, or either of them respectively, by the said Bishop of Nova Scotia, or by any other person or persons, according to the laws and canons of the church of England, which are lawfully made and received in England.

41. Provided always, and be it further enacted by the authority aforesaid, that the several provisions hereinbefore contained, respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said provinces, and also respecting the constituting, erecting, and endowing parsonages or rectories within the said provinces, and also respecting the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said provinces respectively, and assented to by His Majesty, his heirs or successors, under the restriction hereinafter provided.

42. Provided nevertheless, and be it further enacted by the authority aforesaid, that whenever any Act or Acts shall be passed by the Legislative Council and Assembly of either of the said provinces, containing any provisions to vary or repeal the above-recited declaration and provision contained in the said Act, passed in the fourteenth year of the reign of his present Majesty; or to vary or repeal the above-recited provision contained in His Majesty's royal instructions, given on the third day of January, in the year of our Lord, one thousand seven hundred and seventy-five, to the said Guy Carleton, esquire, now Lord Dorchester; or to vary or repeal the provisions hereinbefore contained for continuing the force and effect of the said declaration and provisions; or to vary or repeal any of the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said provinces; or respecting the constituting, erecting, or endowing parsonages or rectories within the said provinces; or respecting the presentation of incumbents or ministers to the same; or respecting the manner in which such incumbents or ministers shall hold and enjoy the same: and also that whenever any Act or

Acts shall be so passed, containing any provisions which shall in any manner relate to or affect the enjoyment or exercise of any religious form or mode of worship; or shall impose or create any penalties, burdens, disabilities, or disqualifications in respect of the same; or shall in any manner relate to or affect the payment, recovery, or enjoyment of any of the accustomed dues or rights hereinbefore mentioned; or shall in any manner relate to the granting, imposing, or recovering any other dues, or stipends, or emoluments whatever, to be paid to or for the use of any minister, priest, ecclesiastic, or teacher, according to any religious form or mode of worship, in respect of his said office or function; or shall in any manner relate to or affect the establishment or discipline of the church of England, amongst the ministers and members thereof within the said provinces; or shall in any manner relate to or affect the King's prerogative touching the granting the waste lands of the Crown within the said provinces; every such Act or Acts shall, previous to any declaration or signification of the King's assent thereto, be laid before both Houses of Parliament in Great Britain; and that it shall not be lawful for His Majesty, his heirs or successors, to signify his or their assent to any such Act or Acts, until thirty days after the same shall have been laid before the said Houses, or to assent to any such Act or Acts, in case either House of Parliament shall, within the said thirty days, address His Majesty, his heirs or successors, to withhold his or their assent from such Act or Acts; and that no such Act shall be valid or effectual to any of the said purposes, within either of the said provinces, unless the Legislative Council and Assembly of such province shall, in the session in which the same shall have been passed by them, have presented to the Governor, Lieutenant-Governor, or person administering the government of such province, an address or addresses, specifying that such Act contains provisions for some of the said purposes hereinbefore specially described, and desiring that, in order to give effect to the same, such Act should be transmitted to England without delay, for the purpose of being laid before Parliament previous to the signification of His Majesty's assent thereto.

43. And be it further enacted by the authority aforesaid, that all lands which shall be hereafter granted within the said province of Upper Canada shall be granted in free and common soccage, in like manner as lands are now holden in free and common soccage, in that part of Great Britain called England; and that in every case where lands shall be hereafter granted within the said province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common soccage, the same shall be so granted; but subject nevertheless to such alterations, with respect to the nature and consequences of such tenure of free and common soccage, as may be established by any law or laws which may be made by His Majesty, his heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of the province.

44. And be it further enacted by the authority aforesaid, that if any person or persons holding any lands in the said province of Upper Canada, by virtue of any certificate of occupation derived under the authority of the Governor

and Council of the province of Quebec, and having power and authority to alienate the same, shall at any time, from and after the commencement of this Act, surrender the same into the hands of His Majesty, his heirs or successors, by petition to the Governor or Lieutenant-Governor, or person administering the government of the said province, setting forth that he, she, or they, is or are desirous of holding the same in free and common soccage, such Governor or Lieutenant-Governor, or person administering the government, shall thereupon cause a fresh grant to be made to such person or persons of such lands, to be holden in free and common soccage.

45. Provided nevertheless, and be it further enacted by the authority aforesaid, that such surrender and grant shall not avoid or bar any right or title to any such lands so surrendered, or any interest in the same, to which any person or persons, other than the person or persons surrendering the same, shall have been entitled, either in possession, remainder, or reversion, or otherwise, at the time of such surrender; but that every such surrender and grant shall be made subject to every such right, title, and interest, and that every such right, title, or interest shall be as valid and effectual as if such surrender and grant had never been made.

46. And whereas by an Act passed in the eighteenth year of the reign of His present Majesty, intituled, an Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain, in any of the colonies, provinces, and plantations in North America, and the West Indies; and for repealing so much of an Act, made in the seventh year of the reign of His present Majesty, as imposes a duty on tea imported from Great Britain into any colony or plantation in America, or relates thereto, it has been declared, "that the King and Parliament of Great Britain will not impose any duty, tax, or assessment whatever, payable in any of His Majesty's colonies, provinces, and plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce, the nett produce of such duties to be always paid and applied to and for the use of the colony, province, or plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective general courts or general assemblies of such colonies, provinces, or plantations, are ordinarily paid and applied:" and whereas it is necessary, for the general benefit of the British Empire, that such power of regulation of commerce should continue to be exercised by His Majesty, his heirs or successors, and the Parliament of Great Britain, subject nevertheless to the condition hereinbefore recited, with respect to the application of any duties which may be imposed for that purpose: be it therefore enacted by the authority aforesaid, that nothing in this Act contained shall extend, or be construed to extend, to prevent or affect the execution of any law which hath been or shall at any time be made by His Majesty, his heirs or successors, and the Parliament of Great Britain, for establishing regulations or prohibitions, or for imposing, levying, or collecting duties for the regulation of navigation, or for the regulation of the commerce to be carried on between the said two provinces, or between either

of the said provinces and any other part of His Majesty's dominions, or between either of the said provinces and any foreign country or state, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give to His Majesty, his heirs or successors, any power or authority, by and with the advice and consent of such Legislative Councils and Assemblies, respectively, to vary or repeal any such law or laws, or any part thereof, or in any manner to prevent or obstruct the execution thereof.

47. Provided always, and be it enacted by the authority aforesaid, that the nett produce of all duties which shall be so imposed shall at all times hereafter be applied to and for the use of each of the said provinces respectively, and in such manner only as shall be directed by any law or laws which may be made by His Majesty, his heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of such province.

48. And whereas, by reason of the distance of the said provinces from this country, and of the change to be made by this Act in the government thereof, it may be necessary that there should be some interval of time between the notification of this Act to the said provinces respectively, and the day of its commencement within the said provinces respectively: be it therefore enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, with the advice of his Privy Council, to fix and declare, or to authorize the Governor or Lieutenant-Governor of the province of Quebec, or the person administering the government there, to fix and declare the day of the commencement of this Act within the said provinces respectively, provided that such day shall not be later than the thirty-first day of December, in the year of our Lord, one thousand seven hundred and ninety-one.

49. And be it further enacted by the authority aforesaid, that the time to be fixed by His Majesty, his heirs or successors, or under his or their authority, by the Governor, Lieutenant-Governor, or person administering the government in each of the said provinces respectively, for issuing the writs of summons and election, and calling together the Legislative Councils and Assemblies of each of the said provinces respectively, shall not be later than the thirty-first day of December, in the year of our Lord one thousand seven hundred and ninety-two.

50. Provided always, and be it further enacted by the authority aforesaid, that during such interval as may happen between the commencement of this Act, within the said provinces respectively, and the first meeting of the Legislative Council and Assembly of each of the said provinces respectively, it shall and may be lawful for the Governor or Lieutenant-Governor of such province, or for the person administering the government therein, with the consent of the major part of such Executive Council as shall be appointed by His Majesty for the affairs of such province, to make temporary laws and ordinances for the good government, peace, and welfare of such province, in the same manner, and under the same restrictions, as such laws or ordinances might have been made by the Council for the affairs of the province of

Quebec, constituted by virtue of the above-mentioned Act of the fourteenth year of the reign of his present Majesty; and that such temporary laws or ordinances shall be valid and binding within such province, until the expiration of six months after the Legislative Council and Assembly of such province shall have been first assembled by virtue of and under the authority of this Act; subject nevertheless to be sooner repealed or varied by any law or laws which may be made by His Majesty, his heirs or successors, by and with the advice and consent of the said Legislative Council and Assembly.

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No. VIII.

*À tous les Électeurs du Bas-Canada.*

MES COMPATRIOTES,

Les efforts que vous avez faits à la dernière élection n'ont pas été inutiles. La Chambre d'Assemblée a eu plus de force qu'elle n'en avait jamais eu. Le paiement de la *liste civile* y a été proposé avec succès. Mais l'effet en a été terrible; car le Parlement a été cassé\*, et vous allez voir des efforts incroyables à la prochaine élection pour faire abandonner les représentants en qui vous aviez confiance. Tout va être mis en œuvre; toutes les gazettes, jusqu'à celle de Québec, sont employées; et on en a encore mis une nouvelle sur pied en Français. Tous les gens en place et tous ceux qui veulent en avoir sont en mouvement. Le coup a été terrible pour eux; ils l'ont senti jusques dans la moëlle des os; mais quelque chose qu'ils fassent, quelque chose que vous voyez, tenez ferme et soutenez vos représentants.

On croit le moment favorable. On espère nous épouvanter par la *liste civile*, et que la promptitude avec laquelle vont se faire les élections, ne vous laissera pas le temps de la réflexion.

Vous n'avez point de temps à perdre; allez vous informer au plus vite à ceux en qui vous avez confiance, et faites vous expliquer l'affaire.

On va vous prêcher le ménagement de votre bourse; on va crier aux taxes. Remarquez bien qui sont ceux qui prêchent et qui crient ainsi; si ce sont ceux qui ont coutume de parler de ménagement et de crier contre les taxes.

Ces personnes ne se sont pas récriées de voir augmenter les dépenses civiles tous les ans; elles ne se sont pas récriées lorsqu'on a proposé de mettre des taxes sur les terres, il y a quelques années. Elles se sont toujours gardées jusqu'ici de vous parler de ces choses; elles jetaient les hauts cris ces dernières années, lorsqu'on publia un compte pour vous donner connaissance des dépenses de la province.

\* It will astonish the English reader when he reflects, that the generous offer of the House of Assembly, of paying the civil expenditure of the country, was considered then nearly equal to high treason, and produced an immediate dissolution of Parliament. He will, however, easily discover the cause, on reading the present address.

Croyez que ce n'est pas le désir de ménager votre bourse qui les agite si fort, mais que c'est bien plutôt le désir d'en avoir le ménagement eux-mêmes, et d'être les maîtres d'augmenter la dépense tant qu'ils voudront.

En 1795, la première fois que les comptes ont été envoyés à la Chambré, la dépense de la province ne montait qu'à £.19,000; en 1800, elle montait à £.32,000; et en 1807, qui est la dernière année dont on ait les comptes publiés, elle montait à £.43,000.

Ils vous diront : Que vous importe que la dépense augmente, ce n'est pas vous qui la payez toute.

Il est vrai qu'il y a une petite partie que nous ne payons pas, et qu'on se garde bien de nous faire payer, afin de pouvoir dire que nous n'avons pas le droit de se mêler de la dépense.

Mais quand la dépense sera une fois augmentée autant qu'il aura plu aux gens en place, il faudra que quelqu'un soit chargé de la payer. Qu'est-ce qui doit en être chargé à la fin ? La mère patrie n'a point établi de fond pour la payer; on tire ce qu'elle en paye actuellement de la caisse militaire : cela pourra continuer tant qu'il ne s'agira que de bagatelles; mais quand les sommes seront devenues considérables, on nous dira : Il est raisonnable qu'une province florissante comme celle-ci paye ses propres dépenses; la mère patrie est assez chargée de frais de guerres qu'elle a eu à soutenir pour la protection de l'empire; et cela sera raisonnable.

Il sera temps alors, disent les gens en place, de régler la dépense, et on aura le même droit qu'à présent. Mais quand la dépense sera trois ou quatre fois plus grande, il y aura trois ou quatre fois autant de gens en place, qui auront trois ou quatre fois autant d'influence et de puissance, et qui crieront trois ou quatre fois autant; et si actuellement on a déjà tant de peine à s'en défendre, comment pourra-t-on le faire alors ? Faut-il attendre qu'ils se soient entièrement emparé de la place, et qu'il soit impossible de résister.

Ils vont vous exagérer les sommes qu'il faudra payer, afin de vous épouvanter; les uns disent, il faut augmenter de £.25,000, d'autres de £.40,000. On disait avant-hier au greffe que c'était £25,000; aujourd'hui on dit que c'est £.40,000. S'il fallait se régler sur leur appétit, la somme serait effectivement considérable; mais ce n'est pas là-dessus que la Chambre d'Assemblée se réglerait, à moins que le nombre de gens en place qui y seront, ne l'emporte.

La somme à payer, suivant les derniers comptes qui ont été publiés, serait de £.16,000. De ces £.16,000, £.11,000 seraient payés par l'Acte des Prisons, en le continuant; et il ne resterait que 5,000 louis. Un couple de chelins sur le vin de Madère et le vin de Porto, et quelques sous sur le sucre blanc, produiraient £.8,000, ce qui seraient une somme plus que suffisante, &c. &c.

The remainder of it, being directed against individuals, is suppressed.

## No. IX.

*Extract of the Bill, as amended by the Committee, for uniting the Legislatures of the Provinces of Lower and Upper Canada. Ordered by the House of Commons to be printed, the 31st of July, 1822.*

1. The preamble is, that in the present situation of the provinces of Lower and Upper Canada, a joint Legislature for both the said provinces would be more likely to promote their general security and prosperity, than a separate Legislature for each of the said provinces, as at present by law established.

2. That so much of 31st Geo. III., c. 31, as provides a Legislature for each of the provinces of Lower and Upper Canada, be repealed.

3. Provided also, that the Act 14th Geo. III., intituled, "an Act for making more effectual Provision for the Government of the Province of Quebec, in North America," should remain repealed.

4, and 5. That from and after the passing of this Act, there shall be one joint Legislative Council, and one joint Assembly for both provinces, and which shall be called "the Legislative Council and Assembly of the Canadas."

6. That the present members of the Legislative Councils of Lower and Upper Canada shall constitute together the Legislative Council of the Canadas, and that other persons may be summoned.

7. That such persons only shall be summoned as directed by the Act 31st Geo. III.

8. That the Governor shall have the power to appoint and remove the Speaker of the Legislative Council.

9. That the joint Assembly shall consist of the present members of both, and shall continue until the 1st of July, 1825, unless sooner dissolved.

10. That the Act of Upper Canada, 60th Geo. III., intituled, "An Act for increasing the Representation of the Commons of this Province in the House of Assembly," shall continue in force.

11. That the Governor of Lower Canada may erect new counties out of the townships to be represented in the Assembly.

12. That no Act shall alter the number of representatives to be passed, unless by two-thirds of both Houses.

13. That the provisions of 31st Geo. III., respecting elections, to remain in force, except as the same are hereby in anywise altered, until otherwise provided for by the joint Legislature.

14. That the Governor, so often as it may be necessary, may summon a new Assembly.

15. That he shall issue writs for the election of members as directed by the Act 31st Geo. III.

16. That in future no person shall be capable of being elected who shall not possess real property to the value of £.500 sterling, and take his oath to that effect.

17. That persons swearing falsely shall be guilty of perjury.

18. That the trials of contested elections shall be according to the mode of proceeding now established by law in that province in which the disputed election or return shall have been made; and that at any time he shall deem it expedient, the Governor may summon two members of the Executive Council of each province to the Assembly.

19. That the joint Legislature shall be summoned, not later than the 1st of September, 1824, and once every twelve months afterwards.

20. That every future Assembly shall continue five years. That the majority of votes shall decide, and that the Speakers of the Council and Assembly shall have a casting voice.

21. That no member, either of the Legislative Council or Assembly, shall be permitted to sit until he shall have taken the oath prescribed by the Act 31st Geo. III.

22. That the royal assent shall be declared or withheld, as prescribed by the Act 31st Geo. III.; and that all laws now in force shall continue, except as hereby repealed or altered.

23. That the privileges of members shall continue.

24. That from and after the passing of this Act, all written proceedings, of what nature soever, of the said Legislative Council and Assembly, or either of them, shall be in the English language and none other; and that, at the end of the space of fifteen years from and after the passing of this Act, all debates in the said Legislative Council, or in the Assembly, shall be carried on in the English language and none other\*.

25. That persons professing the religion of the church of Rome shall not be affected.

26. That certain provisions of the Act 31st Geo. III. shall extend to Acts to be passed by the joint Legislature.

27. That all accounts, returns, papers, &c. &c., shall be laid before the Legislature, and that salaries of officers of the Legislature shall continue till otherwise provided for.

\* I have abstained from making any observations on any of the preceding clauses; but my readers, no doubt, will easily perceive the interested motives of the framers of this union, expecting by it to have annihilated for ever the influence of the French Canadians. The present clause, however, appears to me so impolitic, that I cannot help placing before them the following questions:—What good can England derive in abolishing the French language in Canada? What possible political advantages can she expect from our being more assimilated to our neighbours (the Americans) by language, character, and habits?

## No. X.

*This Composition, which appeared in the Quebec Gazette on New Year's Day, 1829, will assist in giving a tolerable idea of the present feelings and character of the Canadians.*

Sol Canadien ! terre chérie !  
Par des braves tu fus peuplé ;  
Ils cherchaient loin de leur patrie  
Une terre de liberté.  
Nos pères, sortis de la France,  
Étaient l'élite des guerriers ;  
Et leurs enfants de leur vaillance  
N'ont jamais flétri les lauriers.

Qu'elles sont belles, nos campagnes ;  
En Canada qu'on vit content !  
Salut, ô sublimes montagnes,  
Bords du superbe Saint-Lauren !  
Habitant de cette contrée,  
Que nature veut embellir,  
Tu peux marcher tête levée,  
Ton pays doit t'enorgueillir.

Respecte la main protectrice  
D'Albion, ton digne soutien ;  
Mais fait échouer la malice  
D'ennemis nourris dans ton sein.  
Ne fléchis jamais dans l'orage ;  
Tu n'as pour maître que tes lois ;  
Tu n'est pas fait pour l'esclavage :  
Albion veille sur tes droits.

Si d'Albion la main chérie  
Cesse un jour de te protéger,  
Soutiens-toi seule, ô ma patrie !  
Méprise un secours étranger.  
Nos pères, sortis de la France,  
Étaient l'élite des guerriers ;  
Et leurs enfants de leur vaillance  
Ne flétiront pas les lauriers.

## No. XI.

*Statement of the different Establishments for Education in Lower Canada, taken from the Returns made to the Committee of the House of Assembly, on Education, during the Session of 1828-9.*

| Description of the Establishments.                                                                                   | Number of Schools. | Number of Scholars. | Average Price of Tuition. | Average Price to Boarders. |
|----------------------------------------------------------------------------------------------------------------------|--------------------|---------------------|---------------------------|----------------------------|
| <b>IN THE CITIES OF QUEBEC AND MONTREAL, AND DISTRICT OF THREE RIVERS.</b>                                           |                    |                     |                           |                            |
| Schools established in virtue of the 41st Geo. III., cap. 17, commonly called Schools of the Royal Institution - - - | 3                  | 450                 | £. s. d.<br>2 10 0        | £.<br>36                   |
| Colleges - - - - -                                                                                                   | 2                  | 434                 | 1 7 6                     | 19                         |
| Convents - - - - -                                                                                                   | 6                  | 938                 | 0 10 0                    | 15                         |
| Gratuitous Schools - - - - -                                                                                         | 11                 | 1,214               | —                         | —                          |
| Schools of all other descriptions, containing 20 Scholars and above - - -                                            | 42                 | 1,764               | { from<br>0 15 0 }        | 40                         |
| — under 20 Scholars - - - - -                                                                                        | 8                  | 109                 | { to<br>12 0 0 }          | —                          |
| Total - - -                                                                                                          | 72                 | 4,909               | —                         | —                          |
| <b>COUNTRY PARTS.</b>                                                                                                |                    |                     |                           |                            |
| Schools of the Royal Institution, including Gaspé - - - - -                                                          | 70                 | 1,848               | 2 0 0                     | 30                         |
| Colleges - - - - -                                                                                                   | 4                  | 257                 | 3 0 0                     | 19                         |
| Convents (Missions of the <i>Sœurs de la Congrégation</i> ) - - - - -                                                | 14                 | 672                 | 0 15 0                    | 8                          |
| Established in virtue of 4th Geo. IV., cap. 41, and 7th Geo. IV., cap. 20 - - -                                      | 10                 | 426                 | 1 5 0                     | 9                          |
| Schools of all other descriptions, containing 20 Scholars and above - - -                                            | 94                 | 2,702               | { 1 10 0 }                | 10                         |
| — under 20 Scholars - - - - -                                                                                        | 61                 | 865                 | —                         | —                          |
| Total in the Country parts -                                                                                         | 253                | 6,770               | —                         | —                          |
| Ditto in Cities and Towns -                                                                                          | 72                 | 4,909               | —                         | —                          |
| GRAND TOTAL - - -                                                                                                    | 325                | 11,679              | —                         | —                          |
| Number of places where no Schools are established - - - - -                                                          | 29                 | —                   | —                         | —                          |
| Ditto Ditto from whence no Returns were received - - - - -                                                           | 34                 | —                   | —                         | —                          |

No return was received from Gaspé, except for the schools of the Royal Institution.

These establishments are mainly supported as follows:—

The schools of the Royal Institution, by an annual grant from the Legislature of about £.1,900, on an average, since 1818.

The colleges in the towns, by the revenues of the landed property appertaining to each of those establishments, and by the amount of the boarding and tuition of scholars.

The colleges in the country have all been founded by gentlemen of the clergy, and are mainly supported by them. The amount of boarding and tuition forms the remainder of their income.

Convents, by the revenues of landed property granted to them, and by the amount of boarding and tuition.

Gratuitous schools have all been established by voluntary subscription; seven of them receive, this year, aid from the Legislature.

Schools established in virtue of 4th Geo. IV., cap. 41, by one-fourth of the revenues of the *fabriques*, in virtue of the said Act; most of them by a further aid from the curates; the remainder by the price of tuition.

Of the schools of other descriptions, a large proportion of those in the country parts, and not a few in the towns, were established by the clergy; were, and are still, mainly supported by them, the price of tuition being insufficient for the support of the masters.—*Old Quebec Gazette*.

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## No. XII.

### *Extract from the First Report of the Committee of the House of Assembly respecting the Settlement of Crown Lands; printed on the 12th of February, 1821.*

The Honourable James Cuthbert appeared before your Committee, and answered as follows to the questions put to him:—

**Q.** Have you had any, and what means, of becoming acquainted with the nature and advantages of seigniorial tenure in this country, compared with the tenure of free and common soccage?

**A.** Being proprietor of the seigniority of Berthier, in the district of Montreal, and having resided upon it for twenty-four years, I have had occasion to bestow much consideration upon this subject, and acquire much experience respecting it.

**Q.** What, in your estimation, are the relative advantages or disadvantages of these two modes of tenure?

**A.** I hold a very great difference between the two modes of granting land. That under the feudal system, as it is, in my opinion, not accurately called, offers an easy, expeditious, certain, and economical mode of obtaining lands,

in the manner most congenial to the means, habits, wants, and usages of the nineteen-twentieths of the population of this province, and carries in its nature and consequences the only reasonable hope of a long and lasting connection with, and submission to the mother country. Whereas the grants in free and common soccage, after surmounting all difficulties and expense of procuring them, break in upon the habits, customs, maxims, and prejudices of the Canadian grantees; the conditions of those grants not only deprive them of the ordinary resources they possess under the system *en fief*, but also bind them to the obligation of employing, in the first instance, at a time they are totally incompetent, an immense unproductive labour, which, if applied to a land *en fief*, would alone enable them to subsist their families, &c. &c.

Q. What are the causes which prevent the Canadians to settle upon lands in free and common soccage?

A. Grants in free and common soccage strike the great body of the people as a dereliction of all they hold dear; they view the system, and perhaps not without reason, as tending to subvert their institutions, civil and religious, by a slow but unerring progress; then the difficulty of obtaining the grant, the distance from their friends, their removal from the ordinary support and assistance they were accustomed to; and, above all, the immense tax of labour they incur, not only for their own lot, but also for the clergy and crown reserves, which are to be raised in value by the sweat of their brow: these, and many other objections, deter His Majesty's Canadian subjects from settling on free and common soccage grants. It has been said that American and European emigrants have a total aversion to settle upon lands *en fief*, &c. &c.; this is substantially and practically contradicted in the seigniories of Dautrai, Lanorai, Ramesay, d'Aillebout, and Terrebonne, under my own personal knowledge, and in many other seigniories throughout the province. It is principally on account of the language, not of the tenure, that any difficulty has arisen.

With regard to settling the waste lands of the Crown *en fief*, it is within my conviction that, were I in possession of ungranted cultivable land, I could concede some hundred farms *en roture*, in the short space of twelve months, &c. &c.

The Honourable Roderick M'Kenzie, seignior of Terrebonne, appeared before your Committee.

Q. Are there any, and what causes which, in your estimation, have retarded and continue to retard the settlement of the land in the old manors or lordships of this country?

A. No augmentations to seigniories having been made since 1759, and of course not expected to be made hereafter, may be a principal cause for the delays observed in the settlement of some seigniorial lands. Proprietors expecting no increase as formerly, wait favourable opportunities to make the most of what they have.

Q. Is there any emigration from the said seignior; and if so, is the same annual and regular, and whither is the same directed?

A. No emigration from the seignior of Terrebonne.

Q. Do any of the inhabitants emigrate to the townships, granted in free and common soccage; and if not, to what causes do you attribute this circumstance?

A. The inhabitants of this country prefer seigniorial grants to any other. I conceive that system to be the best, since the people who live under it never complain, and seem the happiest in the world. If a settler, who can be recommended, apply to a seignior for a grant, he instantly becomes a proprietor at the trifling expense of five or six dollars to the surveyor or notary, for deeds of survey and concession. The *censitaires*, in the seigniories of Terrebonne, pay annually at the rate of half a bushel of wheat and twenty pence for every twenty acres. Some indeed pay less, but no one pays more. As wheat sells at present, this rent may amount to about two pence halfpenny per acre, &c. &c.

The Rev. Mr. Demers, Superior of the Seminary of Quebec, answered as follows :—

Q. Are the two modes of granting lands in this province, that is to say, that under the feudal system and that in free and common soccage, equally beneficial; and will you please to communicate to the Committee the reasons which induce you to give a preference to either?

A. I am fully persuaded the feudal system, confined within proper limits with regard to seigniorial and permanent rents, is the most advantageous mode of inducing His Majesty's Canadian subjects to become proprietors of the lands they clear, without being compelled to purchase them. These new proprietors are indeed charged with a permanent rent, but if the original grantees of the Crown enter fully into the spirit of the feudal system, all they can impose is very moderate seigniorial and permanent rents, and such as the new grantees will always be able easily to pay. If the Government adopted the feudal system in granting the Crown lands, their grants might regulate the rates of seigniorial rents for every square acre of ground. In this way, the rent in all these new concessions would be uniform, and nothing would remain discretionary. As to the proprietors of these new fiefs, the *lods et ventes*\*, and other feudal dues, would afford them a compensation for the lowness of their rent, and even for the expenses they might incur the more speedily to bring their land into cultivation.

If the lands are conceded in free and common soccage, it will be quite otherwise. It may be presumed, that the greater part of these lands would shortly become the property of a few rich individuals, who would not fail to retain the best lots, in order to bring them into cultivation themselves, and who would then sell or lease them to the rest. How then shall the young Canadian farmers, whose only wealth is that love of labour of which the habit was formed under the paternal roof, settle upon those lands? Finding it impossible to acquire land sufficient for their future decent support, they will be compelled to take some of those lands on lease, or *bail emphytéotique*. But in that mode of settling, it is easily seen that they will not experience equal advantages as if the lands were granted them in the feudal manner. To be convinced of this, it suffices to know on what conditions the lots reserved in the several townships for the Crown and for support of the Protestant clergy are leased; every lot is of 200 acres, or 235½ arpents, or thereabouts, French measure. So early as 1812, three hundred and sixty-three of these lots were

\* Mutation fine paid to the seignior.

leased for twenty-one years, on the following terms, that is to say, "for the first seven years, twenty-five shillings, or eight bushels of wheat, per annum; the second seven years, fifty shillings, or sixteen bushels of wheat; and for the remainder of the period, seventy-five shillings, or twenty-four bushels of wheat, per lot; the lessors having the option of requiring payment to be made in either of the modes stipulated."—*Topographical Description of the Province of Lower Canada*, p. 14

On an average, every lot of 235½ arpents is charged with an annual rent of fifty shillings, or sixteen bushels of wheat, at the option of the lessor. Estimating the bushel of wheat at four shillings only, these 235½ arpents will therefore be charged on an average with a yearly rent of sixty-four shillings. This rent is certainly higher than it ought to be, if an equal lot of ground were granted in feudal tenure. Let us suppose this rent to be precisely the same, and that two young Canadian farmers each take one of these lots of land; that one of them take his on lease, the other under a feudal grant: at the close of the twenty-one years, will the situation of both these farmers be alike? One of them will have become the actual proprietor of the land he has cleared, while the other, with equal care, anxiety, and toil, unattended by any superior advantage during the twenty-one years, will only retain the uncheering recollection of having, under the sweat of his brow, cleared a land not belonging to himself.

But it will be said, will not the *lods et ventes* due to the seignior on every mutation prevent the young farmer from taking lands by feudal grant? By no means; because the young farmer well knows he will have no *lods et ventes* to pay while he remains in possession of his lands, and that such of his descendants as hold it after him will be equally exempt as long as they acquire by descent. Though the due of *lods et ventes* may appear onerous to the purchaser, I am not the less persuaded that this due has an excellent effect on domestic society; for it is generally a powerful motive for retaining hereditary lands. This is not one of those vague assertions which are inconsiderately hazarded, but a matter of fact, readily confirmed by numerous instances afforded by such parts of our country as have been longest settled, such as the *Côte de Beaupré*. It is no rare thing to find in that place families who, at this day, possess the same lands which were granted to their ancestors almost immediately after the earliest settlements effected in this country. Such are the reasons which induce me to think the feudal system more beneficial, relatively to the cultivation of the ungranted lands of the Crown, than the mode hitherto followed in granting the lands.

Q. What are the causes which have prevented His Majesty's Canadian subjects from settling on the lands in free and common soccage?

A. One of the principal causes is the want of pecuniary means of purchasing lands, and afterwards clearing them. I do not think there is now to be procured in the townships a tract, adequate to the support of a family, for less than £.100. Very few young Canadian farmers have such a sum, and those who have, will ever prefer purchasing land already in part cultivated, or applying their money to the clearing of lands taken under a feudal grant,

and costing them nothing. As to those who have no pecuniary means, or scarcely any, they will never be reconciled to taking on lease, or *bail emphytéotique*, a tract of wood land, remote from the place of their nativity, nor will they more readily take such land on *rente constituée*, from apprehension of ultimate inability to pay that rent, and thereby becoming liable to ejection from lands which they have in part cleared; unless they can settle in some other way, they will prefer remaining labourers all their lives. I think I know the inhabitants of the country parts sufficiently to feel assured that, in this opinion, I am under no error.

To this cause, which is inherent in the system itself, which has been invariably pursued in granting the Crown lands since 1795, others may be added: as the want of ready means of intercourse between the settlements in the townships and the Canadian settlements; ignorance of the language of those among whom the young farmers of our parts would be placed; and, above all, the remoteness of religious aid. This alone, I am persuaded, would have prevented the sounder portion of our Canadian youth from availing themselves of the advantages which new settlements might offer in all other respects; nor would the substantial farmers of our country, sincerely attached as they are to their religious principles, ever consent to the departure of their children, to settle in places where they might suspect their faith or salvation to be in danger.

It is easy, with a little attention, to see that these various causes would cease almost instantaneously, if our young farmers had the same facility of settling on the Crown lands as on the unconceded lands in the old seigniories; because they might, by agreement among themselves, depart in sufficient numbers, and take lands at the same place, indulging a most reasonable hope that other young farmers would not fail shortly to join them, &c. &c.

J. T. Tachereau, esq., a Member of the House of Assembly, appeared before your Committee:—

Q. What causes do you think have prevented the settling of lands in your part of the country?

A. The causes which have prevented the settling of lands beyond the seigniories of La Nouvelle Beauce, are a want of roads; a want of grants by the Crown in the ungranted townships, and in those which are conceded a want of roads; the lots for the Crown and those for the clergy, and also the very considerable expenses which the grantees are obliged to incur for opening roads, expenses of survey and other expenses, with respect to which they are unable to obtain reimbursement of a portion of the interest, whereby they are put under the necessity of selling their lands at a very high price, and the interest of the consideration for the sale is equivalent to a *rente* which the farmer could not pay; which would not be the case, if, in conceding those lands at a moderate annual rent, the grantees of the Crown could hope hereafter to be indemnified in some other way.

Mr. Dumont, one of the Members of the House of Assembly, appeared before your Committee, and stated as follows:—

It is impossible that lands, as they are now granted, can suit the native

French Canadians, for they cannot ever succeed in opening and cultivating their lands. For instance, a Canadian who is a proprietor of a lot in a given township settles there; he makes a clearing; he wants a cleared interval *du découvert*; he wants fences of separation; he wants water-courses across several lots belonging to Government, the Protestant clergy, or rich proprietors: is there a moral possibility of his procuring what is required of neighbourhood? This is one of the chief obstacles to the settling of the townships.

Mr. Philemon Wright, of the township of Hull, in the province of Lower Canada, appeared before your Committee, and gave the following information:—

I have resided in this country twenty-three years; previous to residing in this country, I resided in the province of Massachusetts; I was induced to come to this country by the proclamation of General Clarke, which held forth the prospect of obtaining lands, to persons desirous of investing capital in land, and under their form of government.

*Q.* Did you obtain a grant of any, and what waste lands of the Crown, and at what time?

*A.* I was leader for a quarter of a township; ten of us obtained a patent for twelve hundred acres each. I surveyed the whole of the township of Hull, wherein the lands were situated, being a township of 82,429 acres. I got the Order in Council, on the 22nd of March, 1800; the patent was issued in 1806.

*Q.* At what expense was the survey made?

*A.* I cannot speak to the exact amount of the expense; it could not be less than £.700.

*Q.* What portion of the land given to your associates remained in their hands?

*A.* The agreement between me and my associates was, that I should pay out of my own pocket all the expenses of survey, of patent fees, and travelling expenses, in consideration whereof they were to assign to me 1,000 acres each out of the 1,200 assigned to them, which was accordingly done.

*Q.* In what state have been, and are now, the roads and highways in the township of Hull; how and in what manner have they been made, kept up, and repaired?

*A.* When I first settled in the township of Hull, there was not a single tree cut down; I have opened all the roads, with some assistance, to make it possible for my people to pass and repass. One stone causeway, in particular, cost me above £.1,000. The total of the amount of money spent by me and some of my neighbours upon these roads, for the twenty years past, amounts to £.2,211 17s. 6d., besides £.955 expended by the commissioners of the county of York, making a total of £.3,166 17s. 6d., and the roads in the front of the township are now very good.

*Q.* What is the extent of the roads made in the said township with this money?

*A.* About thirty miles.

*Q.* Are there any, and what obstacles, to making roads in the new townships?

*A.* The crown and clergy reserves constitute one great obstacle to the improvement of the internal communications of the townships. The large tracts of land, in the possession of proprietors absent from the province, constitute another great obstacle.

*Q.* Are the lands through which the road from Hull to Long Sault passes, in the hands of small or large proprietors?

*A.* Generally in the hands of large proprietors, absentees from the province.

*Q.* What is the expense of clearing and fencing an acre of wild land; and what is the usual produce of an acre of wild land; and in what consists the process of clearing?

*A.* The expense of clearing an acre of land is £.3; the produce is from two hundred to four hundred bushels of potatoes per acre, or twenty-five bushels of oats, or twenty-five bushels of wheat, or thirty bushels of Indian corn, or two hundred bushels of turnips. The process of clearing consists of three things; first, cutting down the under-brush, which is worth 7s. 6d.; second, chopping down the wood in rows, two rods wide, worth £.1 5s.; third, firing, burning, and branding, fit for the harrow, worth £.1 7s. 6d. Then the work is done.

*Q.* What would be the expense of putting in the crop, per acre?

*A.* The common price is 10s.

*Q.* Do not the poorer sort of settlers find themselves occasionally constrained to adopt a more imperfect mode of clearing, and what is that mode?

*A.* Yes; they first cut the brush and small trees, leaving the large trees standing, which shade the land, so that they do not get more than half a crop.

Lieutenant-Colonel Bouchette, Surveyor-General of this province, appeared before your Committee, and answered as follows:—

*Q.* How long have you been Surveyor-General?

*A.* I am a commissioned surveyor of lands in this province since 1790. I have been upwards of seventeen years at the head of the Surveyor-General's department.

*Q.* When did the Provincial Government commence to grant lands in free and common soccage?

*A.* In 1796.

*Q.* What was the description of persons who were called the leaders of townships?

*A.* I refer to the statement thereof in my geographical works\*.

*Q.* What was the number of signatures usually subscribed to the petition for the grant of a township?

*A.* About thirty-six in a township of ten miles square, of about 44,000 acres, admitting each individual had 1,200 acres.

\* See *Bouchette's Topography*, p. 244.

*Q.* Has there been any grants in this province in free and common soccage to any one individual exceeding 1,200 acres, and what were they?

*A.* As far as I recollect, to Sir Robert Shore Milnes, and the members of the Executive Council\*, under a special mandamus from home, as an indemnification for their services and great trouble in the land-granting business.

*Q.* By what denomination was generally known that individual, amongst the petitioners, who charged himself with the preparing of the petition, and obtaining signatures thereto, with presenting the same to the Provincial Government, and carrying it through the Council, with the expenses of survey, and ultimately with obtaining the patent, and paying the fees thereof?

*A.* They were called leaders of townships.

*Q.* Upon the face of the patent did they, or any other patentees, receive any more than 1,200 acres?

*A.* As far as my knowledge goes, not more.

*Q.* What was the average value of lands in those townships, as they were purchased up by speculators, from the year 1796 to 1803 and 1804?

*A.* The lands were then considered of little value, as they were sold, as far as my knowledge extends, from 6*d.* to 1*s.* 3*d.* per acre.

*Q.* How was the leader of a township indemnified for the expense of survey, patent, &c.

*A.* It was generally understood that they were indemnified by receiving from the other patentees a portion of the lands granted to these patentees.

*Q.* Did you ever understand or hear what that portion was?

*A.* I have generally understood that some conveyed 1,000 acres, and others less.

*Q.* Have there been any new seigniories erected in this country since its conquest by the British?

*A.* None that I know of but Murray Bay and Mount Murray, and Shoolbred, in the district of Gaspé.

*Q.* What is the number of seigniories in the districts of Quebec, Montreal, and Three Rivers?

*A.* As far as I can recollect, 218 in the whole province.

*Q.* Is the surplus agricultural population of the province of Lower Canada at all considerable?

*A.* I think it is.

*Q.* Is the distribution of lands in the cultivated parts of the seigniories of Lower Canada, amongst their settlers, tolerably equal?

*A.* I think it is.

*Q.* What is the usual size of the farms in Lower Canada, in the seigniories?

*A.* They are generally of three arpents in front by thirty in depth, or of

\* The reader will see by this, that the Executive Council had some private interest in recommending the change of tenure; for, by Mr. Bouchette's topographical work we see, as leaders of townships, six members of the Executive Council and five of the Legislative, and we know that six members, and even less usually, constitute a majority of the Executive Council.

three arpents in front by forty-two in depth, except in a few singular instances, in some of the first original grants, which have not a greater front but a far greater depth.

*Q.* Are they not now, in many instances, subdivided to a degree which renders them insufficient to afford convenience to the farmer and his family?

*A.* Yes; I believe it to be the case in many parts of this province.

*Q.* What were the rents and services with which the farmers were charged anterior to the conquest?

*A.* They vary; some at forty *sols*, others one *écu tournois*; but I believe never exceeding.

*Q.* Are these charges deemed onerous by the people of the country?

*A.* I never understood they were.

*Q.* Would they prefer to settle in the seigniories with these charges, in preference to settling on lands in free and common soccage?

*A.* I presume they would.

*Q.* Have any number of Canadian settlers established themselves on the lands granted in free and common soccage?

*A.* I believe very few.

*Q.* To what cause do you attribute this?

*A.* The reasons are obvious: they do not like the tenure, as they do not know it; they do not like to leave their relations and friends; and they like to be within reach of their churches.

*Q.* What are the fees taken in the land-granting business?

*A.* My patent fees are 15*s.* per 1,000 acres; and, as far as I recollect, those of the secretary of the province 10*s.*; and the clerk of the council, I believe, 10*s.*; governor, 15*s.*; auditor, 6*s.* 8*d.*; registrar, 5*s.*; attorney-general, 10*s.* Lands at present granted under military condition produce the following fees in my office: 7*s.* 8*d.* per location ticket; certificates of vacancy, 2*s.* 6*d.*

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### No. XIII.

#### *Extract from the Resolves of the Council respecting the Introduction of Tenure in Free and Common Soccage, in lieu of the ancient Tenure of the Country.*

That the progress of population and settlement in this province, under the government of France, whatever the cause or causes of it, was slow; the cultivated parts, even in the central districts of Quebec, Three Rivers, and Montreal, being, to this day, confined to the banks of the St. Lawrence, and the mouths of navigable streams that fall into it.

That the royal patents, grants on concession of the lands, were either in

seigniorly or in *roture*; the latter consisting of town lots, farms or small tracts and seigniories; larger tracts of various dimensions, many of which are in the rear, or a few leagues from the convenience of water-carriage, still in forest.

That the French king's territorial revenue arose from *quints* or alienation fines, of one-fifth of the consideration money payable by the purchaser of the lands held in seigniories; and of *lods et ventes*, of one-twelfth on the sale of lands held in *roture*; the lands in *roture* ordinarily paying also *cens et rentes*; the *cens* being one *sol*, or an English half-penny for a front of one acre or 180 French feet; and the *rente*, another *sol* for every acre of the concession, with a bushel of wheat for every forty acres, or two fat capons of the value of twenty *sols*.

That the French Crown did not exact its whole dues, but remitted a third, both of the *quint* and *lods et ventes*.

That the seigniories were parcelled out into farms, and these conveyed by the seigniors under like charges of *cens et rentes*, and subject to *lods et ventes*, except where a large parcel had been granted in *arrière fief*; on the subsequent transfers whereof a *quint* became due to the seignior without *cens et rentes*.

That all the grantees, as well of the Crown as of the seigniors, had permanent estates, under an *habendum* to them, their heirs and assigns.

That, according to the Receiver-General's accounts, the territorial revenue for the thirteen years, from the 1st of May, 1775, to the 1st of May, 1788, (comprehending arrears) was, in actual receipt at the treasury, not equal to £.10,000 sterling;

|                                                                                             | £.      | s. | d. |
|---------------------------------------------------------------------------------------------|---------|----|----|
| The <i>lods et ventes</i> being but . . . . .                                               | 1,351   | 9  | 5½ |
| The <i>quints</i> . . . . .                                                                 | 3,148   | 1  | 4½ |
| The balance of royal rents from all the King's<br>own seigniories, Sorel excepted . . . . . | 4,554   | 7  | 5½ |
|                                                                                             | £.9,053 | 18 | 3½ |
| From Sorel . . . . .                                                                        | 216     | 19 | 11 |
|                                                                                             | £.9,270 | 18 | 2½ |

which, together with certain duties of customs fixed by Act of Parliament, is by the royal grace given to the province towards the support of its government.

That, in explaining the causes of the tardy progression of the population of the colony under the government of France, there seems to be little or no ground for ascribing it to the non-compliance of the seigniors with the conditions for cultivation expressed in their patents or grants; the instances of prosecutions for taking an advantage of these conditions, and returning their seigniories to the royal domain, being rare, and the seigniorial *censitaires* so much more numerous than the King's, that the farmer, or the inhabitants of the seigniories, at all times did, and do now, constitute the main body of the landholders of the country.

That the feudal system, if that was amongst the causes of the non-settle-

ment and proportionable debility of the French colony, operating to a discouragement of the royal grants, as well as the grants of the subject, there can be no ground for holding the grantees to a rigorous performance of the conditions of their grants.

That it was among the main causes of that low condition in which Canada was found at the British conquest, is deducible from the probability that many thousands of families had found their account in emigrating from the exuberant population of the kingdom of France, if the Government had given their lands here upon easy terms, and especially in the fertile regions and moderate climates on the banks of the rivers and lakes in the south and south-west.

That the discouragement of that system, to the settlement of the old French grants, must, in future, greatly increase; the population depending now upon the introduction of British subjects, who are known to be all averse to any but English tenures\*; and the Canadian seigniors, of course, be left without a hope of multiplying their *censitaires*, except from the predilection of the descendants of the French planters to usages no longer prompted by interest nor recommended by example.

That the grant of the waste lands of the Crown in free and common soccage is essential to the growth, strength, defence, and safety of the province.

That unless the old French seigniories can be settled upon terms as advantageous to the husbandman as the lands of the Crown, their land-market must be at a stand, to the detriment of the proprietors, until the cultivation of the waste lands of the Crown is damped, by their remoteness from all water-carriage and the conveniences and benefits of commerce.

That, with the advantage of a vicinity to the navigable waters, and a conversion of the tenures, the seigniories will probably be the first to be fully cultivated; and with an increase of profit to the proprietors, under that ample dominion which they will then enjoy over their lands, for settling them upon such terms as themselves may concert, to form a populous tenantry, and lay a foundation in property for that perpetuity of their names and families which a wise and well-balanced government will be inclined to encourage and support.

That the King's *roturier* tenants cannot fail to wish for a conversion and discharge from the *cens et rentes* and *lods et ventes*, and all the other feudal burdens connected with the tenure under which they now hold.

That motives of interest will naturally make it the desire also of every seigniorial *censitaire*, to stand upon the same foundation of exemption with the other landholders of the colony; but as this commutation for a discharge of the rents and dues to the landlords must necessarily depend upon private conventions between them and their tenants, and involving considerations out of the contemplation of any but the parties reciprocally interested, their cases cannot be the objects of special and particular legislative provision; perhaps the surest means of securing to the tenant a fair compact, will be to hold the

\* This aversion, caused by national prejudices, soon ceases when the nature of the French tenure is well understood.

lord to his dues to the Crown, until he has discharged his tenants from the feudal incumbrances in his own favour.

That the prerogative is competent to put the waste lands of the Crown under a soccage tenure; but the legislative interposition is necessary to make that tenure universal.

That if this is to be the work, not of Parliament but of the Colonial Legislature, the Royal instructions given for the greater security of the property of the subject will require an Act with a probationary or suspending clause, until His Majesty's approbation can be obtained.

That an absolute and universal commutation of the ancient tenures, though for the better, would be a measure of doubtful policy; but that no substantial objection occurs against giving such individuals that benefit as desire it, and especially to such of the seigniories whose tenants or *censitaires* shall conceive it to be for their own, as well as for the interest and benefit of their landlords, and may therefore signify their consent to the change.

That the ends may be accomplished by a law, with clauses to the following tenor or import:—

Be it enacted, &c. &c.\*

#### DISSENT.

Mr. Mabane's reasons of dissent from the resolution and motion of the Chief Justice, adopted by the Committee.

Because the resolutions moved for do not appear to apply to the object of the reference.

Because it appears that the slow progress of population and settlement, under the government of France, cannot be ascribed to any inherent vice in the several tenures under which lands are held in the colony; that it arose from the difficulties which the first settlers found in contending with fierce and savage nations which surrounded them; from their frequent wars with the British colonies; and, above all, from their repeated expeditions in the upper countries, and towards the Ohio, in which the ambitious policy of France had forced them to engage.

Because it appears evident, from the rapid and almost unexampled progress of population in the province (from its own resources), being from 65,000 souls in the year 1766, to about 120,000 in 1784, and who are now chiefly employed in agriculture, that the present tenures are not inimical to population and settlement of the colony†.

Because the King's rights in the ancient tenures of the country being

\* No change of this kind has yet taken place. I understand that the Honourable Mr. Hale, seignior of St. Anne, has lately renewed an application for a change of tenure in that part of his seignior not yet conceded, which application was formerly made by Mr. De Lanadrière, seignior of the same place; but I am not yet acquainted with the result.

† The Honourable Mr. Cuthbert, in his examination before the Committee, said: "That in no country where he had travelled, had he met with such a dense agricultural population as in Canada, except in French Flanders and Brabant."

expressly reserved in the Act 14th of the King, and by His Majesty's gracious bounty appropriated to defray the expenses of civil government, ought not to be relinquished or sacrificed without an equivalent compensation.

Because, however unproductive the territorial revenue may have hitherto been, from the indulgence or supineness of government, no judgment can be formed, from the sums actually collected, of the revenue that may hereafter arise therefrom, which must increase in proportion to the population and commerce of the province.

Because the predilection of the native inhabitants of the province to their ancient tenures and laws ought not to be interfered with, unless by their own consent, and on the strongest and clearest grounds of public utility.

Because the alterations proposed by the resolutions, or any other conversion of tenure, tending to give the seignior a more absolute and unconditional possession of the fief, would not only be a sacrifice of the King's rights, but would defeat the wise intentions and beneficial effects of the *arrêts* of 1711 and 1732, and the declaration of 1743, by which the seignior is obliged to grant, to such persons as will apply for them, for the purpose of improvement, lands in concession, subject only to the accustomed and stipulated rents and dues; and upon his non-compliance the Governor is authorized, on the part of the Crown, and for the benefit thereof, to the exclusion of the seignior for ever, to concede or grant the lands so applied for. By the same law the seigniors are forbid, under pain of nullity and a reunion to the Crown of the land attempted to be sold, to sell any part of their improved lands, or *en bois debout*; dispositions of law highly favourable to the improvement of the colony, and which secure to the children of the *censitaires*, or others, the means of settlement, and of employing their industry in cultivation, on fixed and moderate terms; whereas, if the conversion of the seigniories into free and common soccage should take place, the children of the present inhabitants of the country, and all others desirous to settle thereon, should be left entirely subject to the arbitrary exactions of the seigniors, to their infinite prejudice, and the manifest detriment of the country's improvement.

Because it appears that the services, or burdens, to which the *censitaires*, under concessions from seigniors, are subject, are few, clearly understood and ascertained, and are by no means onerous or oppressive.

J. WILLIAMS, C.L.C.

## No. XIV.

*Observations on the Report of the Committee of the whole Council, respecting a Change in the Tenures of the Province of Lower Canada\*.*

Of all the legislators who have preceded the present age, those have been the wisest who have come nearest to an establishment of equality among the subjects. The wisest of all, because he had the Spirit of God, whom we adore, was Moses; he divided the lands amongst the Hebrews with so much justice and equality, that the smallest complaint was never heard. But it would have been little to have established this equality, had he not used the means of maintaining it. To succeed, he rendered these lands by their nature inalienable, and with so much wisdom, that the inalienability constantly supported itself against the efforts of avarice, which generally overturns all things. In such manner, that if any one had alienated his estate in a time of calamity, he, or his heirs, if he had any, recovered his property the year of the jubilee. Thus, every fifty years, the ancient distribution was re-established, in full right. He did more: he provided in such manner for the liberty of individuals, that, if any one had trafficked away a part of his property, he recovered it at that epoch. Thus lost members were restored to their country, who, in re-entering into the possession of their lands, recovered the title of citizens, and found themselves in a condition to fulfil the functions of a citizen. Hence, among them were never known those seditious demands of new registers, or new partitions, so common in Greece, any more than those Agrarian laws so often asked by the Romans.

If it was at present a question of a new establishment, of giving a form to a new people, a more excellent model could not be proposed. But the present question is only of procuring advantages to a people already established; of correcting faults in the culture of a delicate plant, and not of rooting it up: it is a tree, of which the trunk may be preserved, and provision made for extending its roots.

It is a tree that may be pruned; but care must be taken not to destroy it, under a pretext of giving more vigour to the roots already formed, by depriving them of the means of spreading and dividing themselves into new branches, by removing the surrounding earth. This is what must necessarily happen, if the present tenures be abolished, and the soccage substituted in

\* On the 25th of August, 1790, a reference was made by His Excellency the Right Honourable Guy, Lord Dorchester, to the Honourable the Legislative Council of the province, upon the expediency of changing the tenures of the country into the tenure by free and common soccage; and it is upon their report that the above observations were made. For farther information, see first and seventh Reports of the Committee of the House of Assembly.

their place, without obviating two principal inconveniences—the future oppression of the husbandmen, and the ruin of the present seigniors.

In fact, if the rights of *lods et ventes* and of *bannalité*\* be retrenched, without a compensation weighed in the balance of justice, it will be lopping off the head of this tree to give more vigour to the roots. The seigniors must perish, whilst the present race of husbandmen would reap the advantage. But, on the other hand, if the future seigniors be permitted to sell their lands uncleared, and to grant leases on such conditions and charged with such services as they please, it will be taking away from individuals the means of procuring lands for their children; whence the future husbandmen would be exposed to oppression. Thus, the head of the tree being lopped off, the root would be seen sensibly to wither, and the tree would perish. Thus, to a happy and truly free people would succeed a people of slaves and wretches—a people without hope of procuring themselves a decent support, and, consequently, without any certain means of educating their children; by consequence, without morality, and void of probity.

This has not escaped the vigilant attention of the Right Honourable Lord Dorchester, in the order of reference. His views are, to establish in the province the kind of tenures best calculated to insure the progress of agriculture, to render the people happy, to attract new settlers, and procure a numerous population. Views truly wise, and worthy the representative of a great King.

To attain this end, His Excellency wishes the soccage to be considered conformable to the clauses inserted in the statute 12th Car. II., cap. 24; that the advantages and disadvantages of this tenure may be compared with the advantages and disadvantages of the present tenures; and in case a change should appear to be advantageous, the mode to be chosen of doing it without prejudice to the rights of individuals and the general interest of the country is shown. Such is the certain route marked out by His Excellency, in following which we cannot run any risk of error.

The statute 12th Car. II., cap. 24, retained the tenures in soccage, *frank almoigne*, *petit serjeanty*, the honorary services of grand serjeanty, and the copyhold, or tenures by copy of court-roll. This may be seen in Blackstone (Chap. I. of the modern Tenures).

The soccage, in its most ample signification (says this respectable author), seems to denote a tenure by any certain and determinate service. It is of two species: the free soccage, of which the services are honourable; and the villain soccage, of which the services, though certain, are of a base nature. Such as hold by honourable services are called *liberi sokemanni*, free sokemen; freeholders, according to Glanvil, &c. &c.

The grand criterion, the touchstone by which to distinguish this kind of

\* The suppression of bannal mills, it is to be feared, might be prejudicial to individuals; for if a toll be not fixed for grinding, he whose mill might be most advantageously situated, would have it in his power to avail himself of this advantage, to vex those who might be obliged to have recourse to him, in the too-frequent unhappy case of a universally dry season.

tenure, is by its services being certain and determinate ; such, in particular, are the petit serjeanty, tenure in burgage, or the manner in which boroughs and towns hold of their lords, and gavel-kind. This is confirmed by what he says a little higher, that the military services (as escuage itself), while they remained uncertain, were equivalent to knight service ; and that the instant they were rendered certain, they changed both their nature and name, and were called soccage : from whence he concludes, it is the determination of the services that gives the name to this tenure.

Nothing, adds he, better proves a great liberality, a great privilege, than the certainty of the nature of the services which frees the tenant from the obligation of obeying, without delay, the caprice of a seignior, who called on him when he pleased, as in the knight service ; for which reason Britton, who describes the tenure in soccage, under the name of *fraunke ferme*, says, that they consist in lands, of which the nature of the services, being of chivalry, has been changed by feoffment, for certain and determined annual services, among which were reckoned neither homage, ward, marriage, or relief.

Blackstone afterwards proves, that the tenure in soccage is not less of feudal origin than the chivalry tenure ; and that by the ten instances of comparison, which are too long to insert here, it suffices to say a few words, *en passant*, on two of these instances.

At the fourth, he says, that the tenure in soccage was of common right, subject to aids to the lord, when his son was knighted, when he married his eldest daughter, &c. &c., which aids were fixed by the statute of Westminster I, chap. 36, at 20s. for every £.20 per annum ; these aids which were originally mere benevolences, were afterwards enacted as matter of right. The statute 12th Car. II., abolished them, for what reason is easily seen. These aids, in the first instance, were only benevolences ; they were raised by vexation into absolute rights ; the seigniors became oppressors.

But it was not so with respect to the relief, which was paid by the heir at the death of his ancestor, and which was a year's revenue of the estate held in soccage, whether considerable or not. This relief which Bracton does not look upon as a real relief, but simply as *quædam præstatio loco relevii in recognitionem domini*, was retrenched by the statute of Edw I., chap. 1., which declares that the free sokeman shall pay no relief, but after the death of his ancestor shall pay double the usual rent.

The statute 12th Car. II., reserves this relief ; and on lands in fee simple, holden by a rent, the relief is still due on the death of the tenant.

It would be too long to recite the tenures in villainage simple and privileged ; the different modes of possessing them and their different services ; what they have in common with free soccage, and in what they differ ; it suffices to remark, that the statute 12th Car. II., chap. 24, sec. 7, has reserved the tenure by copy of court-rolls, with all the services dependent thereon ; and, consequently, arbitrary rights, at the will of the lord, are yet acknowledged in England. It is true that the courts of justice have confined these rights within moderate bounds, to prevent their absorbing the inheritance, insomuch that, except under particular circumstances, never more

than two years' revenue of an estate are allowed in case of succession or alienation\*.

Such are the tenures that have prevailed in England since the statute 12th Car. II. It is clearly seen that the free soccage, if it does not properly admit a relief, admits, at least, of a compensation.

The villain soccage admits the rights of heriot, in lieu of the relief, to be paid after the death of the tenant, by his heir; it admits the rights of alienation, even arbitrarily (at least by fiction), and according to the will of the lord; though, in one sense, they become certain, because the courts, in their judgments, will not suffer them to exceed two years' revenue on the lands they thus held.

Our *roturier* tenures, according to the custom of Paris, do not admit of relief in any case; and the alienation fines, called *lods et ventes*, can never extend to two years' revenue†. These are the tenures I am about to show, according to the custom of Paris, with the tenure in *fief in capite*, or immediately from the King, and the tenure in *arrière fief*.

All the tenures of Canada are conformable to the custom of Paris, and are divided into noble and *roturier*.

The noble tenures are all subject to the rights of *francs fiefs* and *nouveaux acquêts*, when they fall into hands of *roturiers* or in *main-morte*; that is, a fine which these *roturiers* or holders in *main-morte*, becoming possessors of noble estates, are obliged to pay to the King, when he shall be pleased to order a declaration of it‡.

Those noble tenures are either *francs aleux*, or fiefs subject to services or *redevances*; or fiefs in *frank almoigne*. The only object, at present, being to obviate the odium meant to be thrown on our tenures, it suffices to mention the fiefs held by services and *redevances*.

The fiefs are held either immediately or mediately of the King. The immediate vassal of the King, owes him,—

1st. Fealty and homage, with the *aveu et dénombrement*.

2nd. In case of sale or other act equivalent to a sale, the new possessor owes the *quint*§.

3rd. In case of succession, in the collateral line only, the heir owes the relief||.

4th. In those according to the *Vexin le François*, which are but few, the relief is due on every mutation, but never any *quint*.

\* Notwithstanding the modifications so wisely established against oppression, can any one dissemble that these services are very onerous? In our present tenures, are there any that can be put in comparison with these?

† They are but a twelfth part of the amount of the purchase-money.

‡ The King orders this declaration nearly every forty years, according to Ferrière, *serço franc fief*; this change may be looked upon as uncertain; its rate being according to the prudence of the officers appointed for this purpose, from a state of the revenues arising from the possessions.

§ The fifth part of the purchase-money.

|| It is a year's revenue of the said fief, or a sum fixed by award, or by offer of the heir, at the option of the seignior. This right can be paid but once in a year, however numerous such mutations may be in that period.

5th. The military service in virtue of the *ban*, if the tenant be not privileged\*.

The mediate vassal of the King owes to the seignior of whom he immediately holds, all the above dues, except the military service, which is never due but to the King.

Such are the burdens of common right; there are some others very reasonable and of great advantage to the public good, imposed by clauses in the concessions cited in the report of the Solicitor-General, as well as in the replies of the Honourable Charles de Lanaudière†.

I say nothing of *La Justice*.—

1st. Because it is fallen into disuse, or useless since the conquest, particularly by the Quebec Act.

2nd. Because it would create confusion in the present administration of justice.

3rd. Because it is not inherent in the feudal tenure, *fief et justice n'ont rien de commun*‡.

If from all these rights be excepted the right of *franc fief*, and of *nouveaux acquêts*, it may be said, that the noble tenures have no dues repugnant to the soccage, because, in this case, they have none but what are certain.

I may venture to say, they are neither onerous to the tenants nor uneasy to the government. And as the statute 12th Car. II., by the sect. 6, of cap. 24, reserves all these rights, except for estates held immediately of the King in *capite*, I may add, that they have nothing contrary to this statute, except what may regard the rights owing to the King. What will be said of the *rotures* will show that these first tenures are not oppressive for the *censitaires*.

A juster idea cannot be given of the *roturier* tenures, considered with respect to their nature, than by using the proper terms of Ferrière, in his *Dictionnaire de Droit*. His words are, *verbo roture* :—

“*Roture* is an inheritance held *en censive*, different from *fiefs*, which are inheritances held nobly. Fealty and homage, the *dénombrement*, *relief*, *quint*, *main-mise*, *retrait féodal*, forfeiture, have no place in *rotures*.”

“Inheritances held in *roture* owe but two principal rights; the annual *cens*, and the *lods et ventes*, which are due from the new proprietor to the seignior *censier*, in virtue of sale, or other conveyance equivalent to a sale.

“To these two rights must be added the fines for non-payment of the *cens*, or for failure of notifying the sale; the first is of five *sols Parisis*§, the second of three *livres*, fifteen *sols*.”

To form any other idea of the *rotures* under the custom of Paris, is to

\* This duty has never been required in Canada.

† They are to give notice of what mines may be found in the said *fiefs*; to reserve oak trees proper for building vessels; and to furnish the necessary ground for erecting forts on.—See first Report of the Committee of the House of Assembly, page 69.

‡ Ferrière, *titre premier des fiefs en general, paragraphe premier* No. 35, page 54, to the end.

§ *Sols Parisis* are three-pence and one-third, and three *livres* fifteen *sols* make thirty-seven pence halfpenny.

abandon the best law authorities. It remains to show, that every man has a right to oblige the seignior to grant him lands, at a very moderate and certain return.

The right and facility that every individual in the province has of having lands under the present tenures, is manifestly proved by the ordinances cited by the Solicitor-General and the Honourable Charles de Lanaudière, as well as by the clauses of the concessions of seigniories, as these gentlemen have also well remarked.

1. By these ordinances, and by these clauses, it is expressly forbid to the seigniors to sell lands uncleared, on pain of re-union to the domain of the crown.

2. It is expressly ordained, that the seigniors shall grant lands to all who ask for them.

3. If the seigniors refuse to grant them, after being required so to do, the persons asking the said lands shall make complaint to the Governors, &c.; which Governors are authorized to grant them to them, under the name and for the profit of the King, at the same rate as the other concessions of the said seigniori.

To show that the charges and *redevances* of the *rotures* are certain and moderate, it suffices to expose the highest *rentes* that are known to have been stipulated prior to the conquest, without examining if any seignior, under the silence of the government since that epoch, may have stipulated for higher, or put in practice any vexation.

1. The greatest *rentes* before the conquest, when they were stipulated to be in cash, were two *sols tournois* per superficial acre\*.

2. Those which were stipulated in money and wheat, were of one *sol tournois* per superficial acre, and a bushel of wheat for forty superficial acres.

As to the *cens*, it consisted, generally speaking, of a *sol*, or a *sol* and a half *tournois*, for every acre in front, by the whole depth of the concessions†. This *cens* is subject to—

1. The right of *lods et ventes*.

2. *La saisine*; that is to say, twelve *deniers Paris*, for being seized of it: but the eighty-second article of the custom says, *Ne prend saisine qui ne veut*. There is no obligation to take *saisine*‡.

3. The fine when the case happens§.

By the ordinances already cited, and by the clauses inserted in the contracts, the *censitaires* are obliged,—

\* Two *sols tournois* are equal to a penny and one-ninth; a *sol tournois* being five-ninths of a penny.

† A *sol* and a half *tournois* is fifteen-eighteenth of a penny of *cens*, for an arpent in front, by twenty, thirty, forty arpents in depth. Some are known to be one hundred and twenty-six arpents in depth, which are subject but to this *cens*.

‡ Twelve *deniers Paris* are equal to two-thirds of a penny.

§ This fine is of two sorts: one is incurred by the refusal of paying the *cens et rentes*, and is of five *sols Paris*; the other arises from the default of notice being given of the sale, and consists of three *liures* and fifteen *sols*. But a sentence of the judge is necessary to oblige the proprietor to the payment of these fines.

1. To let their grain be ground at the seignior's mill, and to pay the fourteenth part for grinding.

2. To make, or permit to be made, all roads and bridges necessary for the public.

3. To clear their lands and occupy them, within a year and a day from the date of the contract. [A clause extremely favourable to agriculture, to the advancement of the province, and to population.]

4. They are subject to the reserve of mines, ores and minerals, and oak trees\*.

Thus every man has a right to insist on a grant of land, without its costing him a *sol* to become a perpetual proprietor of it†; and if the *rentes* are all stipulated to be in money, he will pay annually for an estate, for example, of four acres by forty, a rent of sixteen *livres tournois*, and a *cens* of six *sols*‡.

If, on the contrary, the rent is in money and wheat, he will pay eight *livres tournois* of *rentes* and six *sols* of *cens*, with four bushels of wheat§.

If afterwards this land is sold, the purchaser, on entering into all the rights of the settler, becomes also subject to the charges, and will owe the *lods et ventes*||.

Is it then without reason that, under the present system of tenures, the people of this province are said to be happy? Is the *censitaire* exposed on his death to have the fruits of his labour torn from him, after flattering himself with having, by the labour of a whole life, acquired for the children of his bosom the sacred right of an inheritance?

Can these tenures be compared to the leases of ten, twenty years, for life, &c., known in England, of one or of several acres of land for annual rents of two, four, six, ten guineas per acre, which the unfortunate husbandman cannot pay without being reduced to live on a fourth part of what is necessary to satisfy his appetite, and that in potatoes, oats, &c.? Yet, still happy if he be not obliged, after having cleared a great part of his land, to abandon his sacred and natural right to the fruits of his labours, gained by the sweat of his brow, from his incapacity to pay an oppressive rent.

Is this a kind of tenure, which draws the blood of the labourer to nourish and satiate the rich lord, as voluptuous as indolent and useless? Is this a tenure where the earth devours its inhabitants, and must fall, by a natural tendency, into the hands of these great proprietors, the eternal scourge of population?

\* As to oak trees, this reserve does not take from them the liberty of cutting them down on the land they clear, nor even on their other lands; custom having ever considered this reserve in this sense: that the King has a right of taking those trees wherever he finds them, as also the seigniors for their mills, &c., without having it in their power to charge their *censitaires* with culpability for cutting them down. There is even a judgment of M. Begon, of the 30th of July, 1722, which forbids the seigniors to trouble their *censitaires* in the employment and sale of the oak trees they cut down on their lands.

† It will cost him but the notary's fee for passing the deed.

‡ Making 15s. 1d. annual rent for one hundred and sixty arpents of land.

§ Making 7s. 8d., with four bushels of wheat, for the same quantity of land.

|| The *lods et ventes*, as has been already said, are the twelfth part of the amount of the purchase-money; the seigniors generally remit a fourth of this right, without any prescription being established against them by custom.

As a proof, none are known to leave the province to seek elsewhere a more advantageous kind of tenure ; while we see arrive here families in swarms, to enjoy the benefits that its tenures offer them, and breathe the free air of its husbandmen.

Such are the observations I have made, after reading with attention and reflecting on the extract of the proceedings of a Committee of the whole Council of His Majesty, printed by order of his Excellency, dated the 20th of October last. As a citizen and native of the province, of course as much interested in its welfare as any can be, I think no one can blame me for them. I submit them, with the most humble respect, to the examination and wisdom of the Right Honourable Lord Dorchester.

THOMAS BEDARD, *Priest.*

Quebec, February 16, 1791.

No. XV.

*List of Counties and Members for each, according to the Representation Bill, as amended by the Legislative Council and agreed to by the House of Assembly, 11th of March, 1829, taking the Population according to the last Census of 1825.*

| <i>Counties.</i>                 | <i>Members.</i> |
|----------------------------------|-----------------|
| 1. Gaspé - - - - -               | 1               |
| 2. Bonaventure - - - - -         | 1               |
| 3. Rimouski - - - - -            | 2               |
| 4. Kamouraska - - - - -          | 2               |
| 5. L'Islet - - - - -             | 2               |
| 6. Belle-Chasse - - - - -        | 2               |
| 7. Dorchester - - - - -          | 2               |
| 8. Beauce - - - - -              | 2               |
| 9. Megantic (doubtful) - - - - - | 1               |
| 10. Lothbinière - - - - -        | 2               |
| 11. Nicolet - - - - -            | 2               |
| 12. Yamaska - - - - -            | 2               |
| 13. Drummond - - - - -           | 1               |
| 14. Sherbrooke - - - - -         | 2               |
| 15. Standstead - - - - -         | 2               |
| 16. Missisquoi - - - - -         | 2               |
| 17. Shefford - - - - -           | 1               |
| 18. Richelieu - - - - -          | 2               |



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